

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

[2022] SGHC 222

Registrar's Appeal from the State Courts No 17 of 2022

Between

Land Transport Authority

... Appellant

And

Kenso Leasing Pte Ltd

... Respondent

FOUNDATIONS OF DECISION

[Road Traffic — Vehicle licensing — Road Traffic Act — Road Traffic
(Motor Vehicle, Quota System) Rules — COE rebate]

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Land Transport Authority
v
Kenso Leasing Pte Ltd

[2022] SGHC 222

General Division of the High Court — Registrar's Appeal from the State
Courts No 17 of 2022
Kwek Mean Luck J
29 August 2022

16 September 2022

Kwek Mean Luck J:

Introduction

1 This appeal raised the following question (“Question”):

Where a vehicle that has been bought on hire purchase is deregistered, and the hirer remains the vehicle's registered owner, can the Authority grant any COE rebate to the legal or beneficial owner, who is not the registered owner, without the consent of the registered owner?

2 I answered the Question in the negative and allowed the appeal. I now provide my reasons in full below.

Background facts

3 In DC/OSS 201/2021, Kenso Leasing Pte Ltd (“Kenso”) applied for an order for the Land Transport Authority (“LTA”) to transfer the benefit of the applicable Certificate of Entitlement (“COE”) rebates in relation to vehicle SJF 5842D (“the Vehicle”) to Kenso.

4 The District Judge (“DJ”) accepted that under the Road Traffic (Motor Vehicles, Quota System) Rules (1999 Rev Ed) (“MVQS Rules”), only the registered owner or last registered owner of a vehicle which has been de-registered is entitled to the benefit of a COE rebate. The DJ found that in this case, pursuant to the hire purchase agreement between one Ting Wei Xiang Shaun (the “hirer”) and Kenso, the last registered owner of the Vehicle was the hirer, not Kenso.¹

5 The DJ found that it was not feasible for Kenso to get the hirer to file an application for the COE rebate, as he could not be found. The DJ then held that Kenso was the legal and beneficial owner of the Vehicle and it followed that the COE rebate should be transferred to Kenso, even though Kenso was not the registered owner.

6 I granted the LTA leave to appeal against the decision of the DJ, as the question in [1] above was a question of general principle to be decided for the first time, as well as a question of importance upon which further argument and a decision of a higher tribunal would be to the public advantage.²

¹ Certified transcript dated 21 December 2021 in DC/OSS 201/2021 (LTA’s Bundle of Documents (“BOD”) Vol 1, Tab 7, pp 473–481).

² HC/ORC 3344/2022; Notes of Evidence of hearing on 29 June 2022 (LTA’s BOD Vol 1, Tab 3, pp 8–15).

The LTA’s case

7 The MVQS Rules were made under s 10A(4) of the Road Traffic Act (Cap 92, 1985 Rev Ed).³ The LTA submitted that under the MVQS Rules, only the *holder of a COE* is entitled to a COE rebate. This can be seen from rr 20(2), 20(3), 20(3A), 21(1), 21A(1) and 21B(1) of the MVQS Rules.⁴

8 The holder of a COE (in relation to a COE which has been used to register a vehicle) is defined under r 2(2)(b) of the MVQS Rules as “a reference to the registered owner of the vehicle”. Consequently, under the MVQS Rules, only a registered owner of a vehicle is entitled to a COE rebate.⁵

9 The MVQS Rules do not define “registered owner”.

10 The LTA submitted that the definition of “registered owner” should be understood with reference to the RTA and the Road Traffic (Motor Vehicles, Registration and Licensing) Rules (2014 Rev Ed) (“MVRL Rules”).⁶

11 Section 10(1) of the Road Traffic Act 1961 (2020 Rev Ed) (“RTA”) provides that, except as otherwise provided by the RTA and rules made thereunder, “no person may keep or use a vehicle unless it has been registered under [the RTA] and its registration under [the RTA] has not been cancelled”. Section 10A(1) of the RTA supplements the registration requirement under

³ LTA’s letter dated 6 May 2022 (“LTA’s letter”) (LTA’s BOD Vol 1, Tab 5, pp 388–460) at [11(b)].

⁴ LTA’s written submissions in HC/RAS 17/2022 dated 22 August 2022 (“LTA’s submissions (RAS 17)”) at [24(a)]; LTA’s written submissions in HC/OS 189/2022 dated 14 April 2022 (“LTA’s submissions (OS 189)”) at [29].

⁵ LTA’s submissions (RAS 17) at [24(b)]; LTA’s submissions (OS 189) at [29].

⁶ LTA’s submissions (RAS 17) at [24(c)].

s 10(1) RTA by providing that “[n]o vehicle may be registered or ... continue to be registered under [the RTA] unless there is in force a permit issued by the Registrar authorising the registration of the vehicle.” These provisions of the RTA set out the requirements for the registration of a vehicle.⁷

12 The mechanism for such registration is set out in the MVRL Rules:⁸

(a) Rule 2(1) of the MVRL Rules defines “registered owner” as “a person registered under the [RTA] as owner of a motor vehicle”.

(b) Rule 3 of the MVRL Rules specifies a procedure for a person, or motor firm on behalf of that person, to be registered under the RTA as the owner of a motor vehicle.

(c) The LTA is required to maintain a “register of vehicles” under r 12 of the MVRL Rules, which would include the particulars of registered owners of vehicles.

(d) Upon deregistration of a vehicle, it is the “registered owner” of a vehicle who may be entitled to any applicable Preferential Additional Registration Fee (“PARF”) rebate from the LTA.

13 Following from the above statutory provisions, the term “registered owner” under r 2(2)(b) of the MVQS Rules is distinct from the term “owner” as defined under s 2(1) of the RTA. The latter states that “owner, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement”. The RTA itself uses the phrase “registered owner” in respect of certain registration

⁷ LTA’s letter at [9]–[11].

⁸ LTA’s letter at [12].

requirements as distinct from “owner”, as seen for example in ss 19(3)(a), 20(1), 27(1)(b), and 27(1)(c) of the RTA.⁹

14 The MVRL Rules were made under s 34(1)(a) of the Road Traffic Act (Cap 92, 1970 Rev Ed) to, *inter alia*, regulate the registration and licensing of vehicles.¹⁰ Thus, while neither the RTA nor the MVQS Rules define “registered owner”, this phrase can be understood by the definition as set out in s 2(1) of the MVRL Rules, as “a person registered under the [RTA] as owner of a motor vehicle”.

15 Following from this, under the MVQS Rules, the LTA can only grant the benefit of a COE rebate to a person registered as an owner of a motor vehicle or a person nominated by this person.

16 The LTA submitted that there are sound reasons in principle and policy that support this interpretation:¹¹

(a) It enables administrative clarity and expediency by requiring the LTA to deal only with the registered owner, or with a person nominated in writing by this registered owner.

(b) This in turn conserves public resources, ensuring that the LTA is not placed in the invidious position of having to deal with and potentially adjudicate upon competing claims to COE rebates made by different parties. The LTA does not have the ability, mandate, or resources to determine the legal and beneficial ownership of vehicles like the

⁹ LTA’s letter at [15]–[17].

¹⁰ LTA’s letter at [11(a)].

¹¹ LTA’s submissions (RAS 17) at [40].

Vehicle, which was the subject of a private legal arrangement between Kenso and its last registered owner.

(c) Further, it minimises or averts the risk of abuse by parties seeking to bypass or sidestep registered owners to claim the benefit of a COE rebate.

17 In this case, it was undisputed that the Vehicle’s last registered owner is the hirer and not Kenso.¹² The Vehicle’s registration was cancelled on 2 June 2020 by virtue of s 27(1)(c) RTA due to the hirer’s failure to pay road tax.¹³ It was also undisputed that the hirer had not filed an application for the residual value of the COE rebate for the Vehicle to be used or transferred for the benefit of Kenso, pursuant to r 20(5) of the MVQS Rules.¹⁴ Consequently, the LTA’s position was that it cannot grant the COE rebate to Kenso and that the Question should be answered in the negative.

Kenso’s case

18 Kenso did not directly dispute the LTA’s statutory interpretation of the relevant provisions in the RTA, MVQS Rules and MVRL Rules. Kenso also accepted that it was not the registered owner of the Vehicle and that a vehicle’s registered owner is not conceptually the same as a vehicle’s legal and beneficial owner.¹⁵

¹² LTA’s submissions (RAS 17) at [29(b)]; LTA’s submissions (OS 189) at [32(a)].

¹³ LTA’s submissions (RAS 17) at [29(a)]; LTA’s letter at [4(c)].

¹⁴ LTA’s submissions (RAS 17) at [29(c)]; LTA’s submissions (OS 189) at [32(b)].

¹⁵ Kenso’s written submissions dated 23 August 2022 (“Kenso’s submissions”) at [50].

19 However, Kenso disagreed that the COE rebate can only be released by the LTA to the registered owner. It made three submissions.

20 First, Kenso argued that the LTA applied the relevant provisions wrongly. Rule 20(1)(a) of the MVQS Rules states that “a certificate of entitlement for any motor vehicle shall automatically be cancelled if the registration of the motor vehicle (including a public service vehicle) is cancelled under section 27(1)(a), (b), (d) or (e) of the [RTA].” In this case, the LTA informed Kenso, in its letter of 16 September 2021, that: “The Vehicle was deregistered on 2 June 2020 due to non-payment of road tax during the seizure period.”¹⁶ This would have been pursuant to s 27(1)(c) of the RTA, which deals with the failure to pay road tax.

21 Rule 20(1)(a) of the MVQS Rules does not reference s 27(1)(c) of the RTA. Consequently, since r 20(1)(a) of the MVQS Rules was not triggered, neither would rr 20(2) or 20(3) of the MVQS Rules apply to allow the LTA to issue a COE rebate.¹⁷

22 Kenso submitted that with the MVQS Rules being inapplicable, guidance should be drawn from case law and s 2(1) of the RTA, which defines the owner of a vehicle as the person in possession of the vehicle under the hire purchase agreement, which it submitted would be Kenso.

23 Second, Kenso submitted that case law has established that it is the legal owner who is entitled to the PARF and COE rebates. Kenso relied on *Cycle & Carriage Motor Dealer Pte Ltd v Hong Leong Finance Limited* [2005] 1

¹⁶ LTA’s BOD, Vol 2, at p 117.

¹⁷ Kenso’s written submissions dated 23 August 2022 (“Kenso’s submissions”) at [39]–[49].

SLR(R) 458 (“*Cycle & Carriage*”), where the court held at [25] that the legal owner of the vehicle (under the hire purchase agreement) in that case was also the legal owner of the PARF certificate and entitled to its surrender value.¹⁸

24 Third, Kenso submitted that taking a purposive approach in the interpretation of the legislation would lead to answering the Question in the affirmative and the LTA’s literal approach would lead to an unworkable and unreasonable result.¹⁹

25 In most cases of vehicle ownership, the legal and beneficial owner is the registered owner. In such a case, it would be correct for the COE rebate to be issued to the registered owner. Kenso submitted that this was the basis under which the legislation had originally been drafted. However, the drafters did not envisage the situation where the rights of the legal and beneficial owners diverged from those of the registered owners. Kenso argued that applying the literal interpretation advocated by the LTA would result in a registered owner, like a hirer, being entitled to a windfall where he has defaulted in the payment of monthly instalments. Furthermore, hirers might even be enticed to deliberately not pay road tax and force the deregistration of the vehicle, and then claim the PARF and COE rebates without repayment of the financed amounts to any hire purchase companies, which can be a very substantial sum in the case of new vehicles.²⁰

26 In such circumstances, if the COE rebate were not to be granted to the finance company, there would also be no incentive for the finance company to

¹⁸ Kenso’s submissions at [51]–[53].

¹⁹ Kenso’s submissions at [67].

²⁰ Kenso’s submissions at [63]–[65] and [72].

retrieve the vehicle from the authorities and dispose of the vehicle. The LTA would continue to incur storage fees and other expenses. Alternatively, if the hirer does not claim the COE rebate, the LTA will be able to retain any COE rebates at the expense of the finance company.²¹

27 Kenso submitted that the LTA's alternative proposals for Kenso to obtain the COE rebate are unrealistic:²²

(a) The LTA suggested that Kenso approach the hirer to effect a transfer of the benefit of the COE rebate. However, Kenso has stated in its affidavit that it has no knowledge of the whereabouts of the hirer and provided evidence of attempts made at service of court documents on him.²³

(b) The LTA suggested that Kenso could have restored the registration status of the Vehicle and effected a transfer of the Vehicle to themselves thereafter. However, the LTA had stated in an affidavit by its officer that if such an approach were taken, the LTA would refuse to backdate the COE rebate to its seizure date of 10 June 2019, in addition to Kenso having to bear the costs of road tax payment and any late payment penalties despite the Vehicle having being seized by the authorities and not being used on public roads since its seizure. In this case, this would amount to a loss of the COE rebate for over two years.

²¹ Kenso's submissions at [68]–[70].

²² Kenso's submissions at [75]; LTA's submissions (OS 189) at [2].

²³ Affidavit of Leon Khoo Beng Koon dated 29 September 2021 filed in DC/OSS 201/2021.

(c) The LTA suggested that Kenso ought to have commenced proceedings against the hirer and sought orders for the Registrar of the State Courts to sign documents for the Vehicle's transfer on the hirer's behalf if he failed to do so. However, Kenso had already obtained judgment against the hirer in MC/MC 13766/2019 for a breach of the hire purchase agreement. To commence further legal proceedings for the same matter would result in substantial additional legal costs. Kenso would only incur more costs in having to advertise the originating summons in the newspapers for the originating summons to be deemed to have been served on him.

My decision

28 I agreed with the LTA's submission, that on a statutory interpretation of the relevant provisions found in rr 2(2)(b), 20(2), 20(3), 20(3A), 21(1), 21A(1) and 21B(1) of the MVQS Rules, rr 2(1), 3 and 12 of the MVRL Rules, and ss 2(1), 10(1), 10A(1), 10A(4), 19(3)(a), 20(1), 27(1)(b), 27(1)(c) and 34(1)(a) of the RTA, only the registered owner of a vehicle is entitled to the benefit of a COE rebate. The DJ accepted this. Kenso did not directly challenge this.

29 It was undisputed that Kenso is not the registered owner of the Vehicle under the MVQS Rules, MVRL Rules and the RTA. Kenso had not pointed to any part of the legislation which provides that the LTA can transfer a COE rebate to the legal or beneficial owner instead of the registered owner.

30 Instead, Kenso firstly submitted that rr 20(1)(a), 20(2) and 20(3) of the MVQS Rules were not triggered, since the LTA cancelled the registration of the Vehicle pursuant to s 27(1)(c) of the RTA, for failure to pay road tax, and

r 20(1)(a) of the MVQS Rules only references s 27(1)(a), (b), (d) and (e) of the RTA, but not s 27(1)(c) RTA. Rules 20(1)(a) and 20(2) provide:

20(1) Subject to paragraph (15), a certificate of entitlement for any motor vehicle shall automatically be cancelled if —

(a) the registration of the motor vehicle (including a public service vehicle) is cancelled under section 27(1)(a), (b), (d) or (e) of the Act;

...

20(2) Upon the cancellation of a certificate of entitlement under paragraph (1), the Registrar shall issue to the holder of the certificate of entitlement a notice setting out the residual value, if any, of the certificate of entitlement.

31 Rule 20(1) of the MVQS Rules provides for the automatic cancellation of the COE in the circumstances set out in r 20(1)(a) of the MVQS Rules. Parties were unable to highlight any statutory provision that provides the LTA with the discretion to cancel the COE in circumstances where the vehicle registration was cancelled pursuant to s 27(1)(c) of the RTA, for failure to pay road tax. The LTA's position at the appeal, after counsel for the LTA stood down to take instructions from the LTA in the course of the hearing, was that the cancellation of the COE took place when Kenso disposed of the Vehicle on 21 September 2021 and that the provision of COE rebate would be pursuant to r 21B of the MVQS Rules. Counsel for Kenso informed the court that Kenso did not dispute that it disposed of the Vehicle on 21 September 2021.

32 The absence of a reference to s 27(1)(c) of the RTA from r 20(1)(a) of the MVQS Rules did not assist Kenso, since by this submission, the LTA would have had no statutory basis in the first place to cancel the COE. There is no COE rebate if the COE is not cancelled. That being the case, the Question, that is, the issue of whether the LTA can give the COE rebate to the legal and beneficial owner instead of the registered owner, would not even arise. In the alternative

raised by the LTA at the hearing of the appeal, that the COE rebate is made pursuant to r 21B of the MVQS Rules, that provision expressly provides that the holder of the COE, that is the registered owner, is the party to apply for the COE rebate.

33 Second, Kenso's reliance on *Cycle & Carriage* was misplaced. That case arose in a different context and involved the determination of property rights over the PARF certificate as between the legal and beneficial owner and the registered owner. *Cycle & Carriage* did not deal with COE rebate nor did it make a finding on whom the LTA is entitled to give the COE rebate to.

34 There was, for example, no consideration in *Cycle & Carriage* that the regime for COE rebate is governed by statute. Section 10A of the RTA, in subsections (1), (2) and (4)(g), refers to the registration of vehicles on the basis of permits and states that the Minister may make rules to provide for the cancellation of the permit and the refund of all or part of the levy paid for the permit as may be permitted by the rules. Rule 2(1) of the MVQS Rules states that the COE is a permit issued under s 10A(1) of the RTA. The statutory provisions in the MVQS Rules, which allow the LTA to give COE rebates upon cancellation of the COE, refer only to the holder of the COE, that is, the registered owner. This can be seen from rr 20(2), 20(3), 20(5), 21(1), 21A(1) and 21B(1) of the MVQS Rules.

35 Neither did *Cycle & Carriage* consider the issue of whether the LTA could transfer the COE rebate to a person other than the registered owner or his nominee under r 20(5) of the MVQS Rules.

36 Hence, *Cycle & Carriage* does not stand as authority for the proposition advocated by Kenso, that the LTA is empowered to transfer the COE rebate to

the legal and beneficial owner of a vehicle, without the consent of the registered owner.

37 Third, Kenso submitted that a purposive interpretation (as opposed to a literal interpretation) of the legislation would support its position, but it has not shown that there are two or more interpretations of the relevant statutory provisions. In his dissenting opinion in *Attorney-General v Ting Choon Meng and another appeal* [2017] 1 SLR 373 (“*Ting Choon Meng*”), Menon CJ observed at [57] that the purposive approach arises “where the court discerns that there are two or more interpretations of a statutory provision, but only one of which would promote the purpose or object of the statute”. This was reiterated by the Court of Appeal in *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 (“*Tan Cheng Bock*”) at [36]–[37]. Kenso submitted that there is ambiguity in that it is not clear that the LTA had the power to cancel the COE under r 20(1)(a) of the MVQS Rules. However, that goes towards the issue of whether the LTA had the power to cancel the COE rebate in the first place, and not the subsequent question of whether, after having cancelled the COE rebate, the LTA could give the COE rebate to the legal and beneficial owner of a vehicle without the consent of the registered owner.

38 Neither had Kenso identified any parliamentary speech that suggests that the purpose of the relevant provisions is to allow for the legal and beneficial owner to receive the COE rebate, rather than the registered owner.

39 Moreover, the purposive interpretation sought by Kenso would completely go against the express wording of the relevant statutory provisions. The SGCA in *Tan Cheng Bock* had held at [50]:

It also bears mentioning that extraneous material cannot be used ‘to give the statute a sense which is contrary to its express

text’ (*Seow Wei Sin v PP* [2011] 1 SLR 1199 at [21]) save perhaps in the very limited circumstances identified in s 9A(2)(b)(ii) of the IA (see [47(c)] above). This echoes the broader principle that the proper function of the judge when applying s 9A of the IA is to interpret a given statutory provision. Although purposive interpretation is an important and powerful tool, it is not an excuse for rewriting a statute (see [43] above). The authority to alter the text of a statute lies with Parliament, and judicial interpretation is generally confined to giving the text a meaning that its language can bear. Hence, purposive interpretation must be done with a view toward determining a provision’s or statute’s purpose and object ‘as reflected by and in harmony with the express wording of the legislation’: *PP v Low Kok Heng* [2007] 4 SLR(R) 183 at [50].

40 Kenso submitted that the literal interpretation of the legislation advocated by the LTA could result in a windfall to a registered owner like the hirer, or a windfall to the LTA if no party claims the COE rebate. However, such scenarios are predicated on a finance company taking no steps, with respect to the registered owner or the LTA, to claim the COE rebate. The LTA had highlighted that finance companies do have recourse. They could approach the registered owner to effect a transfer of the COE rebate, restore the registration status of a vehicle (prior to its disposal) and effect a transfer of the vehicle’s registered ownership to obtain the COE rebate, or sue the registered owner.

41 Kenso submitted that these steps suggested by the LTA were unrealistic. From the concerns highlighted by Kenso,²⁴ it was clear that the nub of its concerns was not that such steps could not be undertaken, but that they involved some degree of financial costs to Kenso.

42 Kenso’s submission was that effecting a transfer of the vehicle’s registered ownership to obtain the COE rebate in this case would result in the “loss of the COE rebate for over 2 years”. The alternative of suing the hirer

²⁴ Kenso’s submissions at [75].

would “only unnecessarily incur more costs in having to advertise the originating summons in the newspapers for service of the originating summons to be deemed served on him”.

43 That Kenso would have to bear some financial cost in obtaining the COE rebate is, however, not a legal basis for reading the MVQS Rules, MVRL Rules and RTA differently from what they clearly state, which is that only the registered owner or his nominee, is entitled to the benefit of a COE rebate.

Conclusion

44 In conclusion, I answered the Question in the negative. Kenso had not shown any statutory basis for the LTA to give a COE rebate where the vehicle registration was cancelled pursuant to s 27(1)(c) of the RTA. Moreover, all the statutory provisions where the LTA is allowed to make COE rebates only allow the LTA to make the COE rebate to the registered owner or the nominee, and not to the legal and beneficial owner. There was hence no legal basis for the LTA to be directed to transfer the COE rebate to Kenso, the legal and beneficial owner of the Vehicle, without the consent of the registered owner.

45 For the above reasons, I allowed the appeal. Taking into consideration the costs of \$1,000 that had been paid by the LTA to Kenso in the court below for the leave to appeal application, I ordered costs to be paid by Kenso to the LTA for this appeal (including OS189/2022), in the sum of \$8,000 all in.

Kwek Mean Luck
Judge of the High Court

Vishi Sundar, Tan Wenjing Lesley & Ye Zhichun (WongPartnership
LLP) for the Appellant;
Vijai Dharamdas Parwani & Huang Po Han (Parwani Law LLC) for
the Respondent.
