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The Implications of Singapore's Forced Sale Mechanism for Management Fee Arrears Recovery in Hong Kong's Strata Properties

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Abstract. Management fee arrears are a core problem in strata property management. They influence the maintenance of common property and the transition of green energy direct. Existing research has confirmed that management fee disputes are a common problem in both Singapore and Hong Kong. However, there has no study analyzes the detailed design of Singapore's forced sale mechanism in depth or probe the enlightenment of Singapore's forced sale mechanism to collection of management fees of strata property in Hong Kong systematically. This study adopts the method of comparative analysis and analyses the system design of Singapore's forced sale mechanism under Building Maintenance & Strata Management Act (BMSMA) Section 43 and discusses the implications of Singapore's forced sale mechanism for Hong Kong. According to research findings, the management fee recovery mechanism of Hong Kong faces triple predicament: the establishment of an Incorporated Owner (IO) is voluntary, the charging memorandum does not authorize compulsory sale, court proceedings take time. Singapore's forced sale possesses apparent advantages: Management Corporation (MC) can register the charging order without court approval, MC has the position of mortgagee, statutory timeline ensures predictability. This paper recommends Hong Kong to use for reference Singapore experience to introduce legal compulsory sale mechanism, set up specialized strata administration arbitration institution, use lawful timeframe to resolve the long-standing challenge of unpaid management fees.

Keywords: Strata property, management fee arrears, forced sale, Singapore, Hong Kong

1. Introduction

Global urbanization is profoundly reshaping human habitation. "World Urbanization Prospects 2025: Summary of Results" report released by United Nations Department of Economic and Social Affairs (UN DESA) shows that 45% of the world population now lives in urban areas, and it is projected that two-thirds of the global population growth will occur in cities by 2050. This trend is particularly pronounced in land-scarce Asian high-density cities, the construction of high-rise buildings has become inevitable. However, this vertical expansion has created a fundamental legal challenge: when hundreds of families share a single building, how can common property such as

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lifts, corridors, rooftops be effectively maintained? Who bears the maintenance costs? When some owners refuse to pay, what remedies are available to others?

The strata property system was designed to address this challenge. It divides a building into individual private units and common property, which is owned and managed collectively. This system is widely adopted in Australia, Singapore, Hong Kong and other regions [1]. Yet it has also created the management fee arrears problem. When a minority of owners default, common property maintenance suffers, creating a vicious cycle that non-payment leads to deterioration and then results in more non-payment.

Since the introduction of flatted developments in Hong Kong in 1948, disputes over management fees have persisted [2]. IOs are established on a voluntary basis, with approximately 53% of private buildings having no IO; and the Deed of Mutual Covenant (DMC) is unilaterally drafted by the developer, leaving purchasers with no opportunity to participate [1]. This means that a large number of buildings lack any legal subject with standing to pursue fee recovery. Fee arrears not only erode common property values but also hinder Hong Kong's green energy transition. Rooftop solar panel installation requires IOs approval, but fee disputes make collective decision-making nearly impossible. Charters et al. found that apartments account for only 0.3% of solar installations in Australia, with the core obstacle being that "individual action requires collective approval" [3].

This study adopts the comparison analytic method. In terms of institutional comparison, Low, Wan and Chan compared the compulsory sale regimes of Singapore and Hong Kong [4]. Ti provided a comparative analysis of nine jurisdictions, confirming that it is an international trend for property to be sold once a certain number of majority owners have given their consent [5]. This study is the first to systematically analyze the specific legal design of Singapore's BMSMA Section 43 forced sale mechanism, applying Harris's embedded property theory and Bakri's anti-commons tragedy theory to Hong Kong's fee recovery analysis, thereby filling the gap in existing comparative literature. Fee arrears directly affect the quality of life and property values of millions of strata residents in Hong Kong and impede the achievement of Hong Kong's 2050 carbon neutrality target. By drawing on Singapore's experience, this research provides concrete and actionable recommendations for amending Hong Kong's Building Management Ordinance (BMO), addressing the long standing fee arrears problem and promote green energy transition to some extent.

2. The institutional and practical dilemmas of the management fee recovery mechanism in Hong Kong

2.1. Institutional foundation: voluntary formation of IO and unilateral formulation of DMC

The primary weakness of Hong Kong's strata property system is that the establishment of an IO is voluntary, whereas in Singapore, it is mandatory, creating a stark contrast [1]. Data indicates that, as of 2023, only about half of private buildings in Hong Kong have IOs. Over 50% of buildings do not have IOs to proceed management fee recovery. Even if lawful recovery tools such as memorandum of charge exist, they also have their shortcomings.

Another structural defect is that the DMC is formulated unilaterally by the developer, and the owners have no chance to participate in the formulation and revision. The rules of management fee allocation and recovery are set by the developer, which easily leads to unfair allocation. An empirical study on the problems existing in Sydney's strata property points out that information asymmetry is the core reason for the deterioration of this problem, buyers are the most vulnerable group in the transaction, and almost all parties in the system hide information from buyers [6]. A 2023 survey conducted by the Consumer Council of Hong Kong confirmed that unfair allocation

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and disputes over ownership ratio will hinder the adoption of the resolution of the owners' meeting. Owners often express their dissatisfaction by refusing to pay management fees, and the rules of mutual covenant formulated by developers for their own interests are the core institutional incentives for management fee disputes. Homeowners often express their dissatisfaction by refusing to pay management fees, and the developer-friendly covenants that prioritize their own interests are a key systemic factor contributing to unpaid fees disputes.

2.2. Recovery mechanism

The Memorandum of Mortgage Possesses Fundamental Limitations

According to Article 19 of the Hong Kong BMO, subject to the terms of the building's common covenant, a registered owner's corporation may register a mortgage memorandum with the Land Registry when the owner fails to pay management fees. This clause is currently included in most new property common covenants. Registration does not require court approval. Once registered, people can seek reimbursement from the property's new buyers or tenants for outstanding fees, which can create a liability burden that hinders the property's transfer. A mortgage memorandum does not have the power to compel the direct sale of the property. If the delinquent owner refuses to pay the debt, the corporation must apply separately to the court for a sale order. The entire process is lengthy. In the case of Harbour Estates Management Ltd v Yau Chau Yeung [2007] 4 HKLRD 473, it took 14 years for the corporate registration mortgage memorandum to be converted into an approved sale order.

In summary, the current system suffers from three significant interconnected weaknesses. Firstly, the mortgage memorandum only restricts property transactions and does not grant direct disposal rights; secondly, the judicial process lacks fixed timelines, and the duration of the proceedings is unpredictable; Thirdly, more than half of the buildings lack a legal entity capable of initiating recovery efforts. The entire system of relief channels suffers from significant delays and uncertainty, making it difficult to safeguard the collective property rights of all owners.

3. The institutional design and advantages of Singapore's mandatory sale mechanism

3.1. The framework for mandatory sales under BMSMA section 43

Article 43(1) of BMSMA in Singapore stipulates that Management Corporation Strata Title (MCST) can directly register a statutory charging order with the land registry authorities without obtaining a court judgment in advance if it fails to settle the management fee after 30 days. Singapore's legislative logic is that management fees are necessary expenses for maintaining common property, and their recovery should not be delayed by court procedures. This rule grants MCST the right to register, giving priority to protecting the collective interests of all owners; At the same time, a 6-week payment buffer period is set to balance the private property rights of the owners in arrears.

Article 43(2)(a) stipulates that the charging order gives MCST the status of secured creditor with the right to sell. The promotion of this legal status is the key. Memorandum of Charge in Hong Kong has the effect of unsecured real right; Singapore's charging order creates a legal mortgage interest, which can start the sale process without lengthy litigation procedures and greatly shorten the disposal cycle. This is the core legislative difference between the two places, and it is also the fundamental reason why Singapore sells houses more efficiently.

Article 43(3) says that the compulsory sale must meet some conditions: the adoption of a special resolution; Publish a sale announcement; 6-week waiting period; There are no legal proceedings

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going on in this plot. At the same time, the law is accompanied by simplified transaction rules, so that the property buyer does not need to check all the procedures of forced sale, and the management legal person does not need to produce a complete set of ownership documents, which shortens the auction cycle. These procedures require protection mechanisms, not vulnerabilities. The special resolution ensures that the sale decision is supported by overwhelming owners; The 6-week waiting period gives the defaulting owners the last chance to pay. Singapore's system has struck a balance between protecting the rights of minority owners and protecting the collective interests.

3.2. Systemic advantages

Firstly, Singapore's statutory timeline (30 days after written demand for payment if payment is not made, the managing agent can independently register a mortgage order; owners with outstanding fees can prevent sale by paying during the 6-week notice period for sale announcements) replaces the uncertainty of judicial discretion with predictability. Secondly, the mortgage memorandum in Hong Kong only serves as a burden on the property rights; the mortgage order in Singapore, on the other hand, makes MCST a secured creditor with direct access to the right to sell. This difference determines the ultimate outcome of the recovery process. A case of the forced sale of the Mactech Building: the owner had passed away and could not be contacted, outstanding debts exceeded SGD 100,000, and MCST was unable to access the unit for assessment. Despite these obstacles, the forced sale was successfully completed. This case demonstrates that Singapore's compulsory sale mechanism can be implemented even in extreme scenarios where the property owner is missing or deceased, whereas Hong Kong, which faces similar challenges, does not have a similarly effective solution.

4. The enlightenment of Singapore's system for Hong Kong

4.1. Why can Singapore's system be adopted in Hong Kongs

The property bundle theory of the Anglo-American legal system posits that real property rights can be divided into multiple independent rights of possession, enjoyment, and disposal； The stratified housing system effectively distinguishes between the rights of individual owner-occupied units and the rights of shared communal areas owned by the entire community, making it suitable for this theoretical analysis framework. This theory is the core concept of property law in the Anglo-American legal system, systematically developed by scholars such as Hohfeld and Honore, and widely adopted by common law courts. Hong Kong and Singapore share the common law system of the United Kingdom and the United States. The legislation governing strata properties is based on the theory of property bundles as the foundational legal principle. However, there are significant differences in the detailed rules regarding arrears guarantees and disposal rights.

Singapore, like Hong Kong, faces issues with management fee arrears, but it has broken the stalemate of exclusive rights held by a small number of property owners through the compulsory sale mechanism under Section 43 of BMSMA. The similarity of problems implies that solutions can be applied in a similar context. Both types of layered properties in these two locations face similar governance challenges, such as individual property owners' exclusive rights hindering public governance and long-term arrears eroding common assets. However, there are differences between Singapore's mandatory syndicate and statutory pledge regulations and Hong Kong's current framework. Imitation requires localization adjustments.

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A comparative study confirmed that management fee disputes are a common issue in both locations [1]. However, Hong Kong's recovery mechanisms have three major flaws: the effectiveness of pledge memorandums is inadequate, court procedures are time-consuming, and the IO is established on a voluntary basis. Singapore's advantages precisely address these three shortcomings: MCs can register security interests independently without needing court approval, MCs possess the status of secured creditors and direct sale rights, and MCs are mandatory entities. The alignment of the differences suggests that Singapore's institutional advantages effectively fill the gaps in Hong Kong's system, addressing the very challenges it faces. If the underlying logic of the systems in the two locations differs, and the rules governing property rights are completely at odds, it will be difficult to transplant foreign legal provisions. This article correlates the weaknesses in both regions with corresponding optimization pathways, requiring only minor adjustments to suit local public contract systems. Therefore, the Singaporean system can serve as a model for Hong Kong because it is effective.

4.2. Hong Kong has accepted the logic of lowering the threshold for decision-making

Gerlofs and Poon point out that Hong Kong amended the Land (Compulsory Sale for Redevelopment) Ordinance in 2010, reducing the threshold for compulsory sale of specific plots from 90% to 80% [7]. This means that, once 80% of the owners of a building have given their consent, specific properties can be forcibly sold. It also implies that the Hong Kong legislature does not reject the institutional design of "forcing the disposal of owners' properties." The issue is not whether it is possible to force a sale, but rather for what purpose it is being done. In urban renewal projects, "nail houses" obstruct the redevelopment of land; in the pursuit of management fees, "nail houses" hinder the maintenance of communal properties. The underlying logic of both systems is the same; both require breaking the stalemate created by the exclusive rights held by a small group of property owners. Urban renewal has been accepted as a legitimate purpose, and similarly, the pursuit of management fees for maintaining communal property should also be recognized as a legitimate objective. This amendment indicates that the Hong Kong legislature has accepted a core principle: individual property rights can be reasonably restricted in the face of collective interests such as urban renewal and increased housing supply, without requiring 100% consent from property owners.

4.3. Forcing the sale of a property due to non-payment of management fees is not an overreaction

The widespread issue of unpaid management fees necessitates the provision of a definitive deterrent tool by law. Although Malaysia has improved relevant laws, the maintenance and management problems are still serious, and such disputes have surged from 2,642 in 2016 to 5,675 in 2019 [8]. According to the research data, Malaysia's Commissioner of Buildings (COB) took 22,862 enforcement actions on management fee recovery from 2017 to 2020, accounting for 75.5% of all enforcement actions [9]. This means that thousands of cases of management fee arrears need to be solved by COB's compulsory law enforcement every year. If Management Corporation (MC)lacks effective ultimate recovery tools, these arrears cases will be delayed indefinitely, damaging the interests of all owners.

Article 43 of BMSMA gives the management legal person the status of a registered mortgagee. From its legal nature, the compulsory sale stipulated in the sale order is not a punishment for the owners who are in arrears, but the ultimate means for the corporation to pay off the property of the owners who are in arrears.

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Although most of the arrears can be solved by dunning, the extreme cases in reality force the law to set rules of compulsory sale. For example, if the owner loses contact or dies and no one inherits the house. A three-bedroom unit in Park View Garden, the owner has been dead for more than 10 years, no one has gone through the inheritance procedures, and the house has been left unattended for a long time. Due to the long-term arrears of management fees, the OCS could not recover them, and finally they could only apply to the court for compulsory auction of the unit. Because it belongs to compulsory auction and non-deed property, new buyers can't get the title deed, and it is difficult to apply for mortgage for non-deed property in Hong Kong, and buyers have to pay the full amount. The default of management fees indirectly aggravates the plight of ordinary people who want to buy a house but can't. There are also cases where large property owners maliciously default on management fees. In the meeting documents of the Hong Kong Legislative Council, citizens have lodged complaints about developers who, after acquiring old buildings, have consistently failed to pay management fees, resulting in financial and operational difficulties for the corporation. In this situation, if the corporation is not granted the authority to force a sale, large property owners can easily exploit the lengthy judicial process to continue delaying action.

More importantly, both systems are equipped with robust proportionality protection mechanisms that are not easily triggered. The August 2025 case study by the Hong Kong Real Estate Agents Authority clearly states that a corporation must first obtain a court judgment before applying for a sale order. The court will review whether the proportion of outstanding fees to property value is reasonable. While the mandatory sale of Singapore management fees does not require a high threshold for reconstruction, it is subject to multiple layers of proportionality principles: a 6-week notice period for payment, automatic suspension of disposal in the event of pending lawsuits, and a balance between creditor rights and individual property rights. Singapore's compulsory sale system effectively employs the principle of proportionality, ensuring that buildings are not sold arbitrarily unless absolutely necessary.

Forced auctions serve as a last resort disposal tool. The core value of this system is to create preemptive deterrence. In Singapore, most property owners with outstanding fees will voluntarily pay off their debts within a 6-week notice period, eliminating the need for an auction process. It is precisely because the system possesses this ultimate tool that the vast majority of delinquent property owners will proactively make payments after receiving a letter from a lawyer or a notice of foreclosure. When regular collection methods such as legal notices and mortgage memoranda cease to be effective, and there are no ultimate disposal channels available, the persistent shortfall in building public maintenance funds will accelerate the aging of facilities and hinder the implementation of collective projects like green renovations.

4.4. Supporting mechanisms: ensuring that the system is not misused

The forced sale system essentially involves a majority of property owners compelling a minority of owners to sell their properties. If not designed properly, it could be misused. Therefore, when introducing the Singaporean system, it is not enough to simply copy the laws; complementary protection mechanisms must also be put in place.

The Singapore Land Titles (Strata) Act (LTSA) stipulates that applications for compulsory sale of properties less than 10 years old must still obtain a 90% majority vote from owners. This means that, even if 89% of the property owners agree, a forced sale cannot be initiated. The high threshold ensures that only extreme cases of significant arrears, which have garnered overwhelming support, will trigger the mandatory sale. This prevents a majority of homeowners from abusing their power to oppress a minority of homeowners, as well as preventing developers from manipulating votes by acquiring a small number of units. When introducing the compulsory sale mechanism, people should also learn from the proportion of 90% owners who agree to sell, which is the core protection for a few owners.

Article 43(3)(c) of BMSMA in Singapore stipulates a six-week notice period, during which the owner in arrears can still pay and prevent the sale. Article 43(3)(d) also states that the property shall not be sold further if there are pending lawsuits. The 6-week period provides a remedy opportunity for the defaulting owners, and prevents the rights of the defaulting owners from being damaged by auctioning the house directly without notice. If there is a pending lawsuit, the sale of the house will be suspended to ensure that the owner can raise an objection to the court and obtain judicial review. When the compulsory sale mechanism is introduced, a notice period of not less than 6 weeks should also be set, and it should be clear that the sale must be suspended if there are pending lawsuits.

The establishment of tribunals in various regions of Australia aims to better address disputes related to strata title rights [10]. The Singapore Stratified Titles Board employs a mediation-arbitration process to review applications for compulsory sales and mediate disputes related to management fees. The review by independent third-party institutions serves as the final line of defense against the misuse of systems. When Hong Kong introduces a mandatory sale mechanism, it should concurrently establish a specialized, tiered management arbitration body.

4.5. Specific legislative proposals

Firstly, people can refer to Article 43 of BMSMA and add provisions to BMO stating that, after issuing a written notice of demand for payment, if payment is not made within 30 days, the management entity can register a mortgage order on its own, without needing court approval. Additionally, the mortgage order grants the management entity the status of a secured creditor and the right to sell the property. Secondly, it is possible to establish tiered management arbitration panels responsible for reviewing applications for compulsory sales, resolving disputes over mediation fees, and overseeing the registration process for mortgages. Finally, with a predictable timeframe, namely 30 days after written demand for payment if payment is still not made, the management company can independently register a lien order, and the property owner with outstanding fees can prevent the sale by paying within the 6-week notice period for sale announcements, thereby reducing uncertainty in the court process and improving the efficiency of recovery efforts.

5. Conclusion

Through research, this paper finds that Singapore's compulsory sale system is superior to Hong Kong in efficiency, enforcement effectiveness and enforceability. The core difference stems from the fact that self-registration of charging orders eliminates the time-consuming problem of court procedures; The status of mortgagee gives the management legal person the right to sell; Setting legal time enhances the predictability of compulsory sale. There are three dilemmas in the management fee recovery mechanism in Hong Kong. The charging memorandum is ineffective, the court procedure is time-consuming, and IO is voluntarily established, which interact with each other and form a vicious circle. The logic of Singapore's compulsory sale system is to give the management legal person the right to sell on the premise of protecting the rights of minority owners, and its compulsory sale system can be used for reference by Hong Kong. This paper points out that Hong Kong can introduce a statutory compulsory sale mechanism, set up a special arbitration

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institution, set a statutory time limit such as arrears announcement, and improve the recovery efficiency in a predictable time limit.

Based on the realistic dilemma of the management fee dispute in Hong Kong, this paper systematically dismantled the procedures and rules of compulsory sale in Article 43 of BMSMA in Singapore, making up for the shortcomings of the existing comparative law literature that lacks the analysis of the consequences in reality. This paper demonstrates the dilemma of Hong Kong's management fee recovery, the advantages of Singapore's relevant system design, and the similarities between Hong Kong and Singapore's compulsory sale system, which provides support for Hong Kong to learn from Singapore's forced sale system. This study also provides concrete and operable suggestions for Hong Kong to revise BMO, including introducing compulsory sale mechanism, setting up specialized arbitration institutions and setting legal time.

This paper does not comprehensively compare the differences of compulsory sale systems in various countries, such as Australia, Canada and other common law jurisdictions. All the difficulties faced by Hong Kong management fee recovery have not been fully demonstrated, and integrated empirical data have not been collected to compare the success rate of recovery between Hong Kong and Singapore. The future research can be extended to the comparison of other common law jurisdictions, and the empirical data of the recovery efficiency of the two places can be collected, and other difficult problems faced by the recovery of management fees in Hong Kong and the institutional and practical obstacles to introducing the compulsory sale mechanism can be deeply studied.

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