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Rehabilitation of abandoned housing projects: a comparative analysis between the law and practice in peninsular Malaysia and the Republic of Singapore

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Abstract

Abandoned housing projects is one of the housing problems in Peninsular Malaysia. Even though there are laws and policies provided by the Malaysian government to govern the housing industry, the abandoned housing projects problem is still an unresolved issue for the Malaysian government. The real victims are the purchasers themselves. There are no specific or common ways to face the problems because the issues faced by the stakeholders vary for each and every abandoned housing project. This paper will discuss law and practice in the rehabilitation of abandoned housing projects in Peninsular Malaysia and compare them with the position in the Republic of Singapore. From the comparative approach, certain suggestions will be forwarded at the end of the paper to carry out rehabilitation in Peninsular Malaysia and Singapore.

Notes

[1]Abdul Aziz, JI (the administrative officer at Division of Rehabilitation of Abandoned Projects, National Housing Department, Ministry of Housing and Local Government, Pusat Bandar Damansara, Kuala Lumpur), personal communication, 14 July 2010.

[2]Division of Supervision and Enforcement, Ministry of Housing and Local Government, Laporan Senarai Projek Perumahan Terbengkalai Dari Tahun 1990 – Jun 2005 (Ministry of Housing and Local Government, Kuala Lumpur nd) 1.

[3]NHM Dahlan, 'Abandoned Housing Projects in Peninsular Malaysia: Legal and Regulatory Framework' (unpublished Ph.D in Law thesis, International Islamic University Malaysia, Kuala Lumpur 2009).

[4]In English it is called 'Abandoned Housing Projects Rehabilitation Fund'.

[5]Ministry of Housing and Local Government file numbers: KPKT/08/824/ /337, KPKT/08/824/3579, KPKT/08/824/5976-I), KPKT/08/824/6698-1, KPKT/08/824/3947-5, KPKT/08/824/5737-1, KPKT/08/824/3040/E, KPKT/08/3013/E, KPKT/08/2349-2KPKT/08/824/7347–1, KPKT/08/824/3229-1 and KPKT/08/824/3361-1.

[6]Ministry of Housing and Local Government file number: KPKT/08/824/7347-1.

[7]NHM Dahlan, 'Rehabilitation of Abandoned Housing Project: Experience of An Abandoned Housing Developer Through the Help of a Government Agency' (2007) 1 Malayan Law Journal cxxvi.

[8]NHM Dahlan, 'Abandoned Housing Projects in Malaysia: A Legal Perspective' (2006) 6 Malayan Law Journal 6; NHM Dahlan, 'Rehabilitation of Abandoned Housing Project: Experience of An Abandoned Housing Developer Through the Help of A Government Agency' 2007 1 Malayan Law Journal 1; NHM Dahlan, 'Rehabilitation of Abandoned Housing Project in Peninsular Malaysia by A Purchasers' Voluntary Scheme: A Case Study' (2007) 4 Malayan Law Journal clvii; Dahlan, thesis (n 3).

[9]Dahlan, thesis (n 3) 123–39.

[10]Ibid 140–41.

[11]Division of Supervision and Enforcement (n 2) 1.

[12]Ibid.

[13]Ibid. On the Malaysia Department of Insolvency, see ⟨http://www.insolvensi.gov.my/⟩.

[14]Division of Supervision and Enforcement (n 2).

[15]Ibid 1, 5, 26.

[16]Ibid 26, 3.

[17]Normally, the aggrieved purchasers apply for help to the Ministry of Finance (MOF), Ministry of Housing and Local Government (MHLG), Chief Ministers (Menteri Besar/Ketua Menteri) and the Prime Minister through their respective States' Assemblymen (Ahli Dewan Undangan Negeri – ADUN) or their Members of Parliament (MPs) to rehabilitate the abandoned housing projects. However, this may take some time. Sometimes, the application may not be approved due to problems related to the projects. The approval usually depends on the gravity of the problems, the availability of funds on the part of the government or the 'political interest' of the government. These parties (MOF, MHLG and the PM) may instruct SPNB/TPPT to carry out a feasibility study and rehabilitation scheme.

[18]Dahlan, thesis (n 3) 142–43.

[19][2005] 6 MLJ 497 (Court of Appeal at Putrajaya).

[20][2002] 6 MLJ 632.

[21][1995] MLJU 46; [1995] 2 CLJ 471 (High Court at Johor Bahru).

[22][1992] 1 MLJ 166 (High Court in Ipoh).

[23][1990] 1 LNS 42; [1990] 2 MLJ 511 (High Court at Kuala Lumpur).

[24]See n 22.

[25]See n 23.

[26][2008] 1 MLJ 585 (Court of Appeal at Putrajaya).

[27][1998] MLJU 492 (High Court at Johor Bahru, Johor Darul Takzim).

[28][1997] 1 MLJ 808; [1996] 1 LNS 105 (High Court at Kuala Lumpur).

[29][1992] 2 MLJ 370; [1992] 1 LNS 26 (High Court at Kuala Lumpur).

[30]Ibid.

[31]Dahlan, thesis (n 3) 148–49.

[32][1988] 3 MLJ 211 (High Court at Temerluh).

[34]Dahlan, thesis (n 3) 146–47.

[33]OS No 31-4169-1986.

[35]Ibid 147.

[36][1995] MLJU 79; [1995] 3 CLJ 224 (High Court at Kuala Lumpur).

[37]Division of Supervision and Enforcement (n 2) 7, 8.

[38]Dahlan, thesis (n 3) 145.

[39]K Driggers, Planning of Singapore (nd) ⟨http://www.macalester.edu/courses/geog61/kdriggers/housing.html⟩ accessed 25 November 2009.

[40]Housing and Development Board of Singapore (7 August 2007), Housing Development Board ⟨http://www.hdb.gov.sg/fi10/fi10296p.nsf/WPDis/About%20UsA%20Brief%20Background%20-%20Making%20A%20Mark?OpenDocument&SubMenu=A_Brief_Background⟩ accessed 26 September 2007; Housing and Development Board of Singapore (7 August 2007), Housing Development Board ⟨http://www.hdb.gov.sg/fi10/fi10201p.nsf/WPDis/Buying%20A%20New%20HDB%20Flat%20(e-Sales)Policies%20-%20Housing%20Loan%20from%20Banks?OpenDocument&SubMenu=Policies⟩, ⟨http://www.hdb.gov.sg/fi10/fi10296p.nsf/WPDis/About%20UsHDB's%20Role?OpenDocument⟩, and ⟨http://www.hdb.gov.sg/fi10/fi10296p.nsf/WPDis/About%20UsA%20Brief%20Background%20-%20HDB's%20Beginnings?OpenDocument&SubMenu=A_Brief_Background⟩ accessed 18 October 2007.

[41]Rule 12(5) of the Housing Developers (Control and Licensing) (chapter 130 section 22).

[42]Clause 5.1(4)(a)(b) of Forms D and E to the Housing Developers (Control and Licensing) Act (chapter 130, section 22).

[43]Second Schedule to Form D and the Schedule to Form E – Specifications of the Building.

[44]TP Choo (Deputy Housing Controller, Urban Redevelopment Authority of Singapore), personal communication, 3 September 2007.

[45]Ibid.

[46]Forms D and E to the Schedule of the Housing Developers Rules (Capcoo 130 Section 22).

[47][2003] 1 SLR 93.

[48]Dahlan, thesis (n 3) 185–88.

[49]Ibid 366–68 and 407–09.

[50]NHM Dahlan, 'Comparative Study of the Terms and Conditions in The Current Statutory Standard Sale and Purchase of Housing Accommodation in Peninsular Malaysia, The Republic of Singapore and New South Wales, Australia' (unpublished research report, Universiti Utara Malaysia, Sintok, Kedah Darul Aman, Malaysia, 2010).

[51]'I've nothing to hide, says Hishamuddin', 'Abdullah orders ministries to explain to cabinet', 'Ministry denies report on misuse of funds by NGOs', 'Same old story year in, year out', The New Straits Times, 12 September 2007, 1, 4, 12.

[52]The Housing Development (Control and Licensing) Act 1966 and its regulations (Act 118) and the corresponding Housing Developers Act in Singapore.

[53][2008] 3 MLJ 411 (High Court at Kuala Lumpur).

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