



Abandoned projects - For the record... (Part 3)

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JUST two well-researched articles in theSun about abandoned property projects has precipitated a cathartic outpouring of diatribes and emotions. We are shocked by the incessant flow of telephone calls, emails, letters and tearful outbursts over the past 2 weeks.

Our analysis has obviously touched a sensitive nerve, exposing a serious problem which requires urgent intervention by the government, relevant authorities and even the project-financing banks.

Today, we are summarizing the key issues gleaned from our recent analysis plus some pragmatic suggestions and pointers voiced by the "suffering purchasers".

UKAY BISTARI VICTIM

Dr Mohamed Rafick Khan, president of VICTIMS Malaysia, is a victim of an abandoned property development himself.

"In the case of abandoned housing projects and the number of lives affected, I have zero respect for the government, zero respect for the Ministry of Housing, because I feel they are not doing their jobs. Decision makers are not taking authoritative steps and executing remedial measures. Housing Act laws still do not protect the interest of purchasers. If you look at the National Land Code, the government actually has the power to take over a parcel of land even if someone has purchased it. The buyers are "naked", they are not protected. Under section 352, the State Government can evoke abandoned land. Therefore, the issue of abandoned land can be settled and solved, but the authorities are simply not taking appropriate decisive steps to solve these problems," he says.

Dr Rafick believes that this problem of abandoned projects arises largely due to:

- 1) Poor existing laws and enforcement procedures, which have been biased against house purchasers since 1969
- 2) Poor, inconsistent and intentional mismanagement of project finances
- 3) Scope for shareholders to exploit 'corporate veils' in order to avoid prosecution

GENTING VALLEY PURCHASERS

Bob Steedman and Saran Kaur are on the committee of The Genting Valley Purchasers Group, still waiting for the liquidators Dr Ler Cheng Chye and Mr Lum Tuck Cheong to make some form of a proposal, so the owners can move on with their lives.

"Many of us can't afford lawyers. For nearly seven years, we have been trying to come up with an amicable settlement outside the courts knowing that we do not have the financial means to sustain a long drawn legal battle in court. We just want what is ours – our just and legal rights that we have paid for. For medium income-earners like us, "experienced" lawyers and solicitors would prove prohibitively expensive. How can average purchasers like us, who are in this difficult situation, gain access to justice? The banks and liquidators, having deep pockets, can keep us in court for the rest of our lives. A substantial number of the people who bought into this scheme are retirees who have suffered now for 10 years without a home," they share.

Bob and Saran have invested substantial time and money running from pillar to post. From banks to government bodies, various authorities, state federal government officials, even corporate

Opinion



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THE Sarawak state assembly recently passed a resolution calling for an increase from 5%...

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bigwigs... without any relief. The last meeting with the liquidators ended like all else has in the past, without any practical proposition, decision, direction or resolution.

"Who else can we turn to ...as there is no one above this court appointed administrator?" Saran opines.

WIDESPREAD ANGST

A member of the public, who wishes to remain anonymous, suggested that the government use the Build-Then-Sell (BTS) concept.

"The system is not new. It was introduced years ago but put in place only in the last Housing Development Act amendment. The biggest mistake is that this law was not made mandatory. If developers have a choice, they would naturally opt for the one that is to their benefit."

The BTS concept is also called the 10-90 system, where the purchaser pays just 10% upon signing the S&P, and the balance 90% only upon the hand-over of the completed, constructed house. "Now wouldn't this be a dream come true if this law were enforced?" he adds wistfully.

"Being nice doesn't work anymore, yet they say our "group" of property purchasers are troublemakers. If our queries and problems had been duly addressed and resolved, we would not have any reason for this persistent probing."

"None of the relevant authorities have stepped forward to help resolve the problem. It has thus reached a point where we need to behave in a manner which ensures our voice and opinions are heard."

Another 'victim' states: "At our recent meeting with the liquidators, there was a hint that they wanted us to "TOP UP" for rehabilitation of the land. What more do they want? Where in heaven's name do they think we can get more money from? We are already in full debt. The least they can do, even if the land is not converted, is to give us the title ownership. That would at least give us some locus standi."

SIMMERING QUESTION(S)

"The role of the liquidator is supposed to be independent and unbiased. They are supposed to examine all assets of the party going into liquidation, prioritising and ranking all the debtors according to the quantum of financial debts as per accepted practice.

Unfortunately the house purchasers are always placed at the very bottom of this rung, the last to receive anything, ...if at all."

The liquidators are apparently appointed by the court. "Curiously however, the "names" of the liquidators are submitted by the developers in the liquidation request submission letter where the developer will usually propose three liquidators. Is this fair and unbiased?"

"Existing Malaysian laws have too many loopholes. Further, relevant authorities are not pursuing the required due diligence and/or executing proactive measures to fulfil their responsibility to protect the public.

Not surprisingly this has now snowballed into a humungous problem affecting nearly RM10 billion in suffering purchasers' funds. How long can the authorities continue fooling people with artificial reports and doctored figures?"

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