

**PROBLEMS OF SUB-STANDARD HOUSES:**

**A Study of Consumers' Legal Rights Against  
Licensed Private Developers for Good Workmanship  
and Materials of Houses in Peninsular Malaysia**

**BY**

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**INTERNATIONAL ISLAMIC UNIVERSITY**

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## **ABSTRACT OF THE THESIS**

The problem of poor quality of workmanship and materials of houses is a common recurrence among majority of house buyers in Peninsular Malaysia. The irresponsible developers who are not committed in constructing quality houses can substantially undercut reputable developers. Nevertheless purchasers as consumers in the housing industry have legitimate expectation that they deserve a better protection against this problem. Absence of quality audit on workmanship and materials of houses and insurance scheme to cover defects of houses, insufficiency of the present system to provide effective remedy for poor quality of workmanship and materials and deprivation of consumers' right to inspect the quality of houses due to the system of "sell then build" are the problems addressed in this thesis.

The study indicated that the developers have not been imposed with adequate duties to assure of their commitment towards constructing quality houses to consumers. On the other hand, the employment of unskilled workers is found to be one of the factors that cause unsatisfactory performance of the quality of work. Nevertheless their quality of work also depends on the quality of the materials that are used in the construction. In other words the quality of workmanship and materials is inter-related to one another. The weaknesses of the law to regulate these two contributing factors have affected the right of consumers for houses with quality workmanship and materials. Besides that, the respective authorities, in particular Ministry of Housing and Local Government, the Construction Industry Development Board and the building authorities have not been imposed with a duty to inspect or supervise the construction works. Thus, leaving consumers with no kind of quality assurance over

the construction of houses. Similarly the statutory warranty is insufficient to remedy major defect, which could occur after the expiry of statutory warranty period or the six years of limitation period. Simultaneously even though the Tribunal for the Homebuyers' Claims is able to offer minimum of time, less cost and simple procedure in any claim against developers, in terms of problem of sub standard workmanship and materials, this Tribunal does not provide adequate channel to redress consumers' problem. On the other hand the system of "buying off the plan" as practiced in Australia is the model of the housing development that is worth for consideration by the policy makers.

These findings however had certain policy implications, and to improve the consumer protection for house buyers, certain regulatory and non-regulatory approaches were recommended.

## ملخص البحث

إن مشكلة ضعف النوعية في العمالة، ومواد البناء ليس بأمر إعتيادي بين معظم مشتري العقارات في ماليزيا. عدم مبالاة المنشئين في بناء النوعيات الجيدة من المنازل يسبب بكل وضوح إساءة سمعة المنشئين. ومع ذلك فالمشترون بوصفهم زبائن لشركة البناء يتوقعون الحماية القانونية ضد هذه المشكلة. إنتفاء النوعية في مراجعة العمالة ومواد البناء، والتأمين لإبراز شوائب البناء وقصر النظام الحالي عن توفير العلاج المؤثر في ضعف نوعية التشييد والمواد، وحرمان حقوق الزبائن عن التفتيش في نوعية المنازل لأجل النظام المسمى "بع ثم ابن" "sell then build" هي من المشكلات التي تدور حولها هذه الأطروحة.

يتبين لنا في هذه الدراسة أن السلطة المختصة وخاصة وزارة الإسكان والحكومة المحلية ومجلس شركة البناء والتطوير وسلطة المباني لم يفرض عليهم وظيفة التفتيش والمراقبة في أعمال البناء. هذا، ترك الزبائن بدون نوعية التأمين على المباني وكذلك تقصير التأمين القانوني لعلاج الشوائب الكبيرة التي قد تقع بعد إنتهاء مدة التأمين القانوني أو الست سنوات المحدد. في الوقت ذاته ورغم أن المحكمة الخاصة بمشتري المنازل تدعي بقدرة توفير وقت بسيط وتكلفة بسيطة مع الإجراء القانوني في أي دعوى ضد المنشئين، من ناحية مشكلة معيار الصناعات والمواد، هذه المحكمة لم توفر الطرق المناسبة لإستدراك مشكلات الزبائن. من ناحية أخرى النظام " ابن ثم بع" buying off the plan الممارس في أستراليا هو مثل في تطوير المباني وجدير بالإهتمام عند صناع القرارات.

نتائج الدراسة كيفما وجدت إلا أن فيها بعض عقبات التطبيق النظامي، لتحسين

حماية الزبائن المشترين للمنازل وهذا يتطلب بعض النظم المحددة وغير المحددة.

## APPROVAL PAGE

The thesis of Azlinor binti Sufian has been examined and is approved by the following:

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## DECLARATION

I hereby declare that this thesis is the result of my investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references and a bibliography is appended.

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## LIST OF ABBREVIATIONS

AC	Appeal Case
AD	Approved Documents
ALR	Australian Law Reports
All.E.R.	All England Reports
AMR	All Malaysian Reports
AQL	Assessment Quality Level
Bhd.	Berhad
BCA	Building Control Authority
BLR	Building Law Reports
BS	British Standard
CA	Court of Appeal
CAP	Consumer Association of Penang
CASE	Consumers' Association of Singapore
CI	Consumer International
CIDB	Construction Industry Development Board
CIDBA	Construction Industry Development Board Act
CIS	Construction Industry Standard
CLJ	Current Law Journal
Co.	Company
CONQUAS	Construction Quality Assessment System
CI	Consumer International
DBP	Dewan Bahasa dan Pustaka
DID	Department of Irrigation and Drainage
DLR	Dominion Law Reports
DOE	Department of Environmental
DOSH	Department of Safety and Health
Ed.	Edition
Edit	Editor
et.al	(et.alia) and others
Fn.	Footnote
FC	Federal Court
FCJ	Federal Court Judge
FOMCA	Federation of Malaysian Consumer Associations
HC	High Court
HD Regulations	Housing Development (Control and Licensing) Regulations, 1989
HDA	Housing Development (Control and Licensing) Act, 1966
HOL	House of Lords
http	hyper text transfer process
Ibid.	(ibidem) in the same place
i.e.	id est (Lat) that is
IDT	issue document of title
Insaf	Bar Council Journal
IU	International Islamic University
IUMLJ	International Islamic University Malaysia Law Journal
JCA	Judge Court of Appeal

KB	Kings Bench
LP	Lord President
Ltd.	Limited
LR	Law Reports; Law Review
MC	modular coordination
M & E	mechanical and electrical
MHLG	Ministry of Housing and Local Government
MLJ	Malayan Law Journal
MS	Malaysian Standard
MR	Master of Rolls
n.d.	no date of publication
NHBC	National House Building Council
NGO	Non-Governmental Organisation
n.p.	no page
n.p.p.	no publisher and place of publication
NSW	New South Wales
NZLR	New Zealand Law Reports
Ors.	Others
PAM	Persatuan Akitek Malaysia
Ph.D	Doctor of Philosophy
PMC	Project Management Company
pp.	pages
PWD	Public Works Department
QB	Queens Bench
QFD	Quality Function Deployment
REDAS	Real Estate Developers' Association of Singapore
REHDA	Real Estate and Housing Developers' Association of Malaysia
SC	Supreme Court
SCC	Supreme Court Case
SDBA	Street, Drainage and Building Act, 1976
Sdn.Bhd.	Sendirian Berhad
SMC	Singapore Mediation Centre
SLR	Singapore Law Reports
trans.	Translation
UBBL	Uniform Building By Laws, 1984
UDHR	United Nation Declaration of Human Rights
USA	United States of America
WLR	Weekly Law Reports



# LIST OF STATUTES

## Malaysia

Architects Act, 1967 (Act 117).  
Architects (Scale of Minimum Fees) Rules, 1986.  
Civil Law Act, 1956 (Act 67).  
Construction Industry Development Board Act, 1991(Act 520).  
Construction Industry Development Board (Accreditation and Certification) Regulations, 1999.  
Construction Industry (Collection of Levy) Regulations, 1996.  
Consumer Protection Act, 1999(Act 599).  
Contracts Act, 1950 (Act 136).  
Courts of Judicature Act, 1964 (Act 91).  
Environmental Quality Act, 1974(Act 127).  
Federal Constitution Ordinance, 1957 (Ord. 55/57)  
Housing Development (Advertisement) Rules, 1969  
Housing Development (Control and Licensing) Act, 1966 (Act 118)  
Housing Development (Control and Licensing) Regulations, 1989  
Housing Developers (Housing Development Account) Regulations, 1991  
Housing Development (The Tribunal for Homebuyers Claims) Regulations, 2002  
Human Rights Commission of Malaysia Act, 1999(Act 599).  
Land Conservation Act, 1960 (Revised 1989)(Act 385).  
Limitation Act, 1953 (Revised 1981) (Act 254)  
Local Government Act, 1976 (Act 171).  
National Land Code, 1965 (Act 56/1965).  
Registration of Contractors (Construction Industry) Regulations, 1995.  
Registration of Engineers Act, 1967 (Act 138).  
Rules of High Court, 1980.  
Specific Relief Act, 1950 (Act 137).  
Street, Drainage and Building Act, 1974 (Act 133).  
Subordinate Courts Act, 1948 (Act 92).  
Subordinate Court Rules, 1987.  
Town and Country Planning Act, 1976 (Act 172).  
Uniform Building By Laws, 1984.

## Other Countries

Building Act, 1993 of Victoria (Australia).  
Building (Approved Inspectors, etc) Regulations, 1985 (United Kingdom).  
Building Control Act, 1989 (Singapore).  
Building Control (Accredited Checkers) Regulations, 1989 (Singapore).  
Building Control Regulations, 1989 (Singapore).  
Building Control Act, 1984 (United Kingdom).  
Building Control Authority Act, 1991 of Queensland (Australia).  
Building Control Regulations, 1991 (United Kingdom).  
Consumer Protection Act, 1986 (India).  
Contracts (Rights of Third Parties) Act, 1999 (United Kingdom) .  
Defective Premise Act, 1972 (United Kingdom).  
Domestic Building Act, 1995 of Victoria (Australia).

Home Building Act, 1993 of New South Wales (Australia).  
Homeowner Protection Act, 1998 (British Columbia).  
Latent Damage Act, 1986 (United Kingdom).  
Protection of Human Rights Act, 1993 (India).

## LIST OF CASES

- Abdul Razak bin Datuk Abu Samah v Shah Alam Properties Sdn Bhd & Anor Appeal*  
[1999] 2 MLJ 500, CA
- Addis v Gramophone Co. Ltd* [1909] A.C. 488
- Adong bin Kuwan v Kerajaan Negeri Johore & Anor* [1997] 1 MLJ 418
- Allan Bryan v Judith Anne Maloney* [1995] 128 ALR 163
- Ann's Merton London Borough Council* [1978] AC 728
- Arab-Malaysian Finance Berhad v Steven Phoa Cheng Loon & Ors and other appeals* [2003] 1 MLJ 567
- Askin v Knox* [1989] 1 NZLR 248
- Bailey v Bullock & Others* [1950] 2 ALL ER 1167
- Barnwood Sdn Bhd v Chai Kim Choong*
- Batty v Metroplotan Properties Realisations Ltd* {1978} QB 554, [1978] 2 ALL ER 445
- Bottomley v Bannister* [1932] 1 KB 458
- Callaghan v Robert Ronague Ltd (Supreme Court, Auckland All 12/76 17 September 1976,*
- Cardy v Taylor* (1996) 38 Con LR 79
- Chan Brothers Development Sdn Bhd v Tan Kon Seng* [2001] 6 MLJ 636
- Ching Yik Development Sdn Bhd v Setapak Height Development Sdn Bhd* [1996] 3 MLJ 675
- City Investment Sdn Bhd v Koperasi Sebaguna Cuepacs Tanggungan Bhd* [1988] 1 MLJ 69
- City of Kamloops v Nielsen* (1984) 10 DLR (4th) 641

*Cox v Phillips Industries Ltd* [1976] 1 WLR 638

*CPMSS v State of Uttar Pradesh* (1990) SC 2060

*Datuk Bandar Dewan Bandaraya v Ong Kok Peng & Anor* [1993] 2 MLJ 234

*Dennis v Carnwood Borough Council* [1982] 3 ALL ER 486

*Donoghue v Stevenson* [1932] AC 562

*Dr Abdul Hamid Abdul Rashid & Anor v Jurusan Malaysia Consultants & Others*  
[1997] 3 MLJ 546

*Dutton v Bognor Regis Building Co Ltd.* [1972] 1 ALLER 462/QB 373

*East Ham Borough Council v Bernard Sunley & Sons, Ltd.* [1965] 3 ALL ER 619

*Florence, Bailes v Dr.Ng Jit Leong* [1985] 1 MLJ 374

*Gabolinscy v Hamilton City Corporation* [1975] 1 NZLR 150,163

*George Mitchell (Chestehall) Ltd v Finney Lock Seeds Ltd* [1983] 1 ALL ER 108

*Government of Malaysia v Cheah Foong Chiew* [1993] 2 MLJ 439

*Greenock Corp v Caledonian Rly Co and Another Appeal* [1917] AC 556

*Groom v Crocker* [1938] 2 ALL ER 394

*Hamlin v Great Notthen Railway Co.* [1856] 1 H & N 408

*Hancock & Ors v BW Brazier Ltd* [1966] 2 ALL ER 901

*Hayes & Another v James & Charles Dodd ( A Firm)* [1990] 2 ALL ER 815

*Hedley Bryne & Co. Ltd v Heller & Patners* [1963] 2 ALL ER 575

*Hobbs v London & South Western Railway Co.* [1875] LR 10 QB 111

*Hong Leong Equipment Sdn Bhd v Liew Chuan* [1996] 1 MLJ 510

*Hu Sepang v Keong On Eng & Ors* [1991] 1 MLJ 440

*Hwa Chea Lin & Anor v Malim Jaya (Melaka) Sdn Bhd.* [1996] 4 MLJ 544

*Invercargill City Council v Hamlin* [1994] 3 NZLR 513

*Jarvis v Swan* [1973] 1 ALLER 71

*Jennings v Tavener* [1955] 1 WLR 932

*Junior Books Ltd v Veithchi Co Ltd* [1983] 1 AC 520

*KC Chan Brothers Development Sdn Bhd v Tan Kon Seng & Ors* [2001] 6 MLJ 636

*Khaw Daw Yau v Kim Nam Realty Development Sdn Bhd* [1983] 1 MLJ 335 at p.341

*Khoo Ah Imm @ Chang Bee Kiam & Ors v Datuk Bandar Kuala Lumpur & Anor*  
[1997] 2 MLJ 603

*Lai Mew Seng v Cosmopac Sdn Bhd* [1998] 2 AMR 1100

*Lawrence v Cassel* {1930} 2 KB 83

*Lembaga Tata tertib Perkhidmatan Awam v Utra Badi a/l Perumal* [2000] 3 MLJ 294

*Lynch v Thorne* [1956] 1 ALL ER 744

*Miller v Cannon Hill Estate Limited* [1931] 2 KB 113

*Murphy v Brentwood District Council* [1990] 2 ALL ER 908

*Murphy v Brentwood District Council* [1991] 1 AC 398

*Ong Seok Heng v Wee Cheong Motor & Housing Developer Sdn Bhd* [1990] 2 CLJ  
1007

*Otto v Bolton and Norris* [1936] 2 KB 46

*Perelli General Cable Works Ltd v Oscar Pibre & Partners (A Firm)* [1983] 2 WLR  
6

*Perry v Sidney Phillips & Ors* [1982] 1 WLR 1297

*Philleoallied Bank (M) Bhd. v Bupinder Singh a/l Avtar Singh & Anor* [2002] 2 MLJ  
513

*Puncakdana Sdn. Bhd. v Tribunal for Housebuyers' Claims and Another Application*  
[2003] 4 MLJ 9.

*R.Rama Chandran v The Industrial Court Of Malaysia* [1997] 1 MLJ 191

*RSP Architects Planners & Engineers v Ocean Front Pte Ltd & Anor Appeal* [1996]  
1 SLR 113.1

*Sea Housing Corporation Sdn Bhd v Lee Poh Choo* [1982] 2 MLJ 31

*Sea Housing Sdn Bhd. v Lee Poh Choo* [1982] 2MLJ 31 at p.34

*See Chye Fook & Anor v The Teng Seang Realty Sdn Bhd* [1989] 1 MLJ p. 309

*Seong Fatt Sawmills Sdn Bhd v Dunlop Malaysia Industries Sdn Bhd* [1984] 1 MLJ  
286 p.291

*Shantistar Builders v Totame* (1990) 1 SCC 161

*Shantistar v Narayan* (1990) SC 630

*Sparham-Souter v Town and Country Development (Essex) Ltd* [1976] 2 WLR 493

*Steven Phoa Cheng Loon v Highland Properties Sdn Bhd.* [2000] 4 MLJ 235

*Stiller v Porirua City Council* [1986] 1 NZR 84

*Suisse Atlantique Societe' d' Armement Maritime SA v NV Rotterdamsche Kolen  
Centrale* [1976] 1 AC 361

*Sutherland v C.R.Maton and Son* [1976] 3 BLR 87

*Tan Chong & Sons Motor Company Sdn Bhd v Alan McKnight* [1983] 1 MLJ p.227

*Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Anor* [1996] 1 MLJ 261

*Teh Khem On & Anor v Yeoh & Wu Development Sdn Bhd & Ors* [1991] 2 MLJ 663

*Tribunal Tuntutan Pemebeli Rumah v Westcourt Corporation Sdn. Bhd. (and 4 Other  
Appeals)* [2004] 3 MLJ 17.

*Unni Krishnan v State of Uttar Pradesh* (1993) 1 SCC 645

*Vincent v Union of India* (1987) SC 990

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