

SUB-COMMITTEE REPORT**CONVEYANCING PRACTICE**

**Nurul Muhaniza
Binti Hanafi**

Chairperson	:	Nurul Muhaniza binti Hanafi
Deputy Chairperson	:	Kasmani binti Baharuddin
Sub-Committee	:	Yu Ai Ting Haji Zainal Abidin bin Shaikh Zakaria Sarah Kambali Adlina Hasni Dato' Seri Zainal Abidin

Frankly, compared to the tough challenges in reporting years 2020/2021 and 2021/2022 due to the outbreak of Covid-19 pandemic, this term 2023/2024 brought some relief to the Conveyancing Practice Committee (“CPC”) team of the Selangor Bar Committee.

Many previous major issues with relevant agencies/stakeholders such as Land Offices, Lembaga Hasil Dalam Negeri (“LHDN”), Lembaga Pembiayaan Perumahan Sektor Awam (“LPPSA”), Suruhanjaya Syarikat Malaysia (“SSM”) and the Insolvency Department had been duly resolved in the previous terms whereas this term was more about maintaining the good relationships that CPC has with these stakeholders.

However, CPC did face some challenges in resolving complaints from the Members arising from the implementation of e-Tanah Selangor, which was introduced recently on 30th October 2023. The system is new and many Members are still facing problems which resulted in the CPC team having to approach PTG Selangor that a special task force was formed to process presentations made prior to 1st December 2023. CPC hopes that Selangor Land Offices would be able to resolve all issues with the e-Tanah system Vendor soon.

Be that as it may, CPC team is pleased to report the following updates to Members pertaining to conveyancing practice throughout the year 2023.

1. Meeting with Pejabat Tanah & Galian Negeri Selangor (PTG Selangor)

On 06.04.2023, CPC team met the Pengarah Pejabat Tanah & Galian Negeri Selangor (“PTG Selangor”) YBrs Tn Yusri bin Zakariah and his officers. The meeting was held to maintain the good relationship between the members of the Selangor Bar and PTG Selangor as well as to discuss the latest development and issues arising.

CPC has issued a circular to the Members on issues which were raised and resolved in the meeting, inter-alia :

1.1 48 hours’ notice for collection/extraction of documents from Smartbox

Members are advised to consistently check their emails in both the inbox and spam folder. There have been issues where Members missed the email notification for collection which went into their “spam” folder or “boxbe guest list”. Email notifications will be sent out to the email address registered with the Smartbox system only. Members are advised to collect their documents from the Smartbox within 48 hours of the email notification and not within 7 working days from the presentation statement. Failure to collect within 48 hours may result in late penalty charges being imposed by the respective land office.

1.2 Delay in receipt of private land search results or presentation statements

Members are advised to follow up with Encik Khairi bin Zaman Huri if they still did not receive emails after 3 or 4 working days from the date of submission (of the application for private land searches or presentation statements) at the Smartbox kiosks. Members may email Encik Khairi bin Zaman Huri directly at his email address: khairi.zaman@selangor.gov.my or contact him at 03-55447804. However, there might be some issues with the telephone lines since the registration departments for landed and strata have moved to new premises.

1.3 Issue of multiple rejections for fresh reasons

There have been cases of multiple rejections for fresh reasons by PTG Selangor officers. Members are advised to raise the issues with Selangor Bar Committee (“SBC”) with supporting documents or see Encik Khairi bin Zaman Huri to resolve the issues. Members may email Encik Khairi bin Zaman Huri directly at his email address: khairi.zaman@selangor.gov.my or contact him at 03-55447804.

1.4 Imposition of RM10.00 on the Statutory Declaration for presentation of Private Caveats

For entry of private caveats (by individuals or banks), there have been rejection cases for failure to pay RM10.00 for the Statutory Declaration (“SD”) by certain district land offices. Usually, the total registration fees for entry of private caveat by an individual is RM320.00 and by a bank is RM340.00.

SBC has sought clarification from Pengarah PTG Selangor on this issue and was informed that the SD (presented together with Form of Entry of Private Caveat) attracts registration fees of RM10.00. As such, the actual registration fees payable for entry of private caveat by individuals is now RM330.00 and by banks is RM350.00. However, PTG Selangor is yet to officially start charging the additional RM10.00 on the SD. PTG Selangor will soon impose the registration fee of RM10.00 on the SD and will issue a circular to it. Members are advised to take note on this issue.

1.5 CTC of Court Orders

Members are advised to download Court Orders from the court's e-filing system (which has serial numbers/bar codes) and produce copies of the Court Orders which have been duly certified as true copies by the Court. There have been some discrepancies in terms of the Court Orders or "*perintah meragukan*" provided by the Members extracted from the court e-filing system. PTGS has been advised to lodge police reports whenever they come across forged Court Orders presented for registration.

1.6 Members to ensure the correct submission of documents to Smartbox

Members are advised to exercise caution and ensure that their runners submit the documents to the correct Smartbox kiosks. There have been cases where documents meant for registration at Kuala Selangor Land Office or Petaling ended up in the PTG Selangor Smartbox.

2. **Meeting with the Suruhanjaya Syarikat Malaysia (SSM), Selangor Branch**

On 11.05.2023, CPC team met the officers from SSM. The meeting was held to maintain the good relationship between the members of the Selangor Bar and SSM as well as to discuss the latest developments and issues arising.

2.1 To adopt formats and guidelines as per Practice Directives issued by SSM

Members are advised to follow the formats and guidelines as per paragraph 12(b) of the Practice Directive No.1/2017 issued by SSM for the preparation and filing of forms with SSM. SBC has issued a circular No: SBC/CIR/039/2023 dated 19th May 2023 to that effect. For Members who have missed out the SBC circular, they may click the link at https://my/Pages/Legal_Framework/Companies-Act-2016.aspx

2.2 Compound Reduction Initiatives

Please be informed that SSM has announced 3 compound reduction initiatives to help ease burden of the corporate community for common offences under the Companies Act 1965 and Companies Act 2016. These initiatives will end by 31st December 2023. The initiatives involve reducing the compound by 90% of the original value on the companies that have a "dissolved" status under the Companies Act 1965 and Companies Act 2016. For example, 90% reduction on the maximum compound of RM45,000.00 is RM4,500.00 and the reduction compound by 90% on the RM5,000.00 is RM500.00 only.

3. **Meeting with LHDN (Selangor Branch)**

On 17.05.2023, CPC team had the pleasure of meeting Pengarah LHDN Cawangan Selangor and his officers at our own Selangor Bar Committee Meeting room. The meeting was held to maintain the good relationship between the members of the Selangor Bar and LHDN as well as to discuss the latest developments and issues arising.

3.1 Filing of e-CKHT Forms

Implementation of e-CKHT Forms. Members are advised to advise their clients to submit their CKHT Forms online via e-CKHT and keep the records of the supporting documents for 7 years for audits/inspection. For the time being, LHDN still accepts manually filed CKHT Forms and the supporting documents. LHDN has yet to issue IDs for lawyers to file e-CKHT forms on behalf of their clients. Pending that, Members are strongly advised NOT to use Members' personal ID in submission of CKHT Forms for and on behalf of their clients. However, Members may guide their clients with the draft of e-CKHT forms for their clients to adopt and submit. Members are advised to advise their clients to personally submit e-CKHT Forms on their own.

3.2 Commencement of Nationwide CKHT Audits by LHDN

LHDN has commenced action nationwide to audit and impose compounds for those who failed to submit their CKHT Forms within the stipulated period of time ie. 60 days from the date of disposal or contract or within 60 days from unconditional date of the contract.

Members are advised to take note of “approval by the Government or State Government” as per paragraph 17 of the Schedule 2 of Real Property Gains Tax Act 1976 & Orders. The approval does not apply to “court approval” or “an authority or committee appointed by the Government or State Government”.

Members are also advised to read thoroughly the contents of the letter of consent issued by the land offices which would clearly state the date of approval as decided by the State Authority. Such date might differ from the date that appears on top of the said Letter of Consent to transfer issued by the Land Office or the said Letter of Consent might be issued at a later date from the date of approval by the State Authority. Members are advised to be alert and advise their clients accordingly.

For Members who have yet to file their CKHT Forms on behalf of their clients for whatever reasons, it is advisable to file the same as soon as possible. It is better late than never.

4. Meeting with LPPSA

On 26.05.2023, CPC team met the CEO of LPPSA and his officers. The meeting was held to maintain the good relationship between the Members of the Selangor Bar and LPPSA. LPPSA sought the CPC team's assistance to advise Members on the following:

4.1 Preparation of Form 16N /Discharge of Charge, etc for LPPSA's execution upon redemption

Members are advised to prepare and print Form 16 N Discharge of Charge or Form 30A or 30B (statutory vesting order from BPP to LPPSA) for

LPPSA's execution upon redemption/ discharge of charge. LPPSA will only prepare Form 16N for the borrowers who have elected not to be represented by any solicitors.

4.2 Common Issues faced by LPPSA

LPPSA has requested SBC to raise the common issues faced by the LPPSA loan processing team as follows :

- 4.2.1 It is mandatory to adopt the format as prescribed by LPPSA for the Letter of Undertaking ("LU") for Malay Reserved Land. The said LU should be maintained in its original format. It should not be amended, struckthrough or deleted by lawyers and the original copy of the LU which has been duly signed and witnessed must be submitted to LPPSA. Members are advised to adopt the format as uploaded in the LPPSA website or follow the link at <https://myfinancing.lppsa.gov.my/my/borang-sokongan-permohonan-pembiayaan>.
- 4.2.2 It is mandatory for Members to adopt the format as prescribed by LPPSA in the issuance of quotation of legal fees.
- 4.2.3 It is mandatory for Members to submit to LPPSA clear copies of Identity Cards of the Purchaser/Borrower/Customer/Chargor/Vendor(s), as the case may be.
- 4.2.4 For facilities under the 3rd Category/ *Jenis Ketiga*, it is advisable for Members to submit the draft of Sale and Purchase Agreement ("SPA") with full collateral information of the parties, properties and purchase price. LPPSA prefers draft SPA over Option To Purchase ("OTP").
- 4.2.5 Documents submitted to LPPSA must be in a complete set. Do not send in documents on a "piece meal" basis unless they are based on queries from LPPSA.
- 4.2.6 Members are to advise and highlight to the Purchasers/Borrowers to build their houses as per the progressive plan approved by LPPSA.
- 4.2.7 LPPSA will only disburse the facilities for renovation in 2 stages. Members are to take note and advise their clients accordingly.

5. Meeting with PTG Wilayah Persekutuan KL

On 19.10.2023, CPC team met Ketua Penolong Pengarah Pejabat Tanah & Galian Negeri WP Kuala Lumpur ("PTG KL") and his officers. The meeting was held to maintain the good relationship between the members of the Selangor Bar and PTG KL as well as to discuss the latest development and issues arising.

5.1 CPC team raised issues on the complaints made by the runners/representatives of the legal firms who, despite having queue numbers, are not guaranteed to be able to present their documents and many come to queue up early in the morning waiting for their queue numbers. PTG KL responded that those runners who arrive by 9:00 am will get a queue number running close to 190 and are unlikely to be able to perform their presentation on that particular day.

5.2 CPC team was informed that the Land Registry is currently experiencing a high volume of cases as their counters cater for both landed and strata properties. CPC team has suggested to PTG KL to engage task force staff as additional temporary manpower but was informed that they cannot rely on temporary staff as the counter staff would be handling cash.

5.3 CPC team was also informed that PTG KL has been using their discretion to extend the opening of counter till 4:00 pm to accommodate as may runners/representatives of the law firms with queueing numbers. Their staff handling registration of titles are even doing overtime on weekends/public holidays in order to ensure timeliness of the registration process.

6. Meeting with Insolvency Department, Selangor Branch

On 20.09.2023, CPC team had a courtesy visit from the Director (Pengarah) of the Insolvency Department (“OA”) and her officers at our own Selangor Bar Committee Meeting room. Not many issues were raised in the meeting. The followings are issues raised by OA for Members to take note:

- 6.1 Members are advised to avoid typographical errors and ensure correct details such as identity card numbers, company registration numbers are keyed into the system when making online payment, particularly when making the deposit payment of RM2,000.00. To date, OA has faced about 30 cases with typo errors since year 2020.
- 6.2 Members are advised to conduct bankruptcy/winding up searches before commencing action or preparation of sale and purchase transaction. It is a serious offence for the bankrupt to receive payment of deposits of sale and lawyers could be found negligent.
- 6.3 Members are also advised to file bankruptcy orders or winding up orders A.S.A.P or within 7 days to avoid any complications. Under Companies Act law, the winding up orders must be served on OA within 21 days and OA must serve the Orders to SSM. If OA receive the said orders late, then OA will be fined by SSM for such delay.
- 6.4 For Members who act for banks in auction cases, OA will process payments received within 24 hours from receipt. Unfortunately, there has been delays in forwarding the payments to OA.
- 6.5 Do file the Proof of Debt (“POD”) as soon as possible to enable OA to pay out dividend payments promptly.

7. **Meeting with Pejabat Tanah Daerah Kuala Langat**

On 22.09.2023, CPC team made a courtesy visit to the officers of Pejabat Tanah Daerah Kuala Langat. The meeting was held to maintain the good relationship between the members of the Selangor Bar and the said Land Office as well as to discuss the latest developments and issues arising.

8. **Hi-Tea and Get Together Event**

The Hi-Tea and Get Together Event was held on 17.11.2023 at Empire Hotel, Subang Jaya, Selangor involving the officers from all relevant parties such as Land Offices, LHDN, LPPSA, SSM, and the Insolvency Department.. The event was for the Members and the relevant officers to mingle and exchange ideas.

The representatives of every government department were given opportunity to give a speech on their expectation, ideas for the betterment of working relationship with the Members. For the first time ever, Lembaga Perumahan Hartanah Negeri Selangor (“LPHS”) representatives attended the event and they were indeed surprised with the warm welcome they received.

Encik Mohd Khairul Azhar Abdul Samat from PTG Selangor even took the stage by updating the latest development and issues facing by the Land Officers with the recent implementation of e-Tanah Selangor. Overall, the event was a blast! Tickets were sold out and many government officers were definitely impressed with the successful programme.

9. **Meeting with Lembaga Perumahan dan Hartanah Selangor (LPHS)**

Upon discussion with Pn. Erni Juliana binti Rosli of Lembaga Perumahan Hartanah Selangor (LPHS) on 05.12.2023, both parties agreed to organize “*Seminar on Ownership Mechanism for State Controlled Property in Selangor*” (Owsem) scheduled on 20/02/2024 for the benefit of members of the Selangor Bar. This is also a good opportunity to discuss the latest development and issues arising with LPHS..

CPC team is committed to identifying and resolving issues and complaints of Members in the areas of Conveyancing practice with the relevant agencies. CPC team also aims to enhance relationship and communication with all parties involved. Moving forward, I wish to thank all my members of the Conveyancing Practice Committee who had sacrificed their precious time in assisting me and for being there to carry out my undertakings. I also wish to thank the officers of the land offices in Selangor for their continued support, co-operation and patience.

My sincerest thanks and appreciation the Selangor Bar Secretariat who was always supportive and ever ready to assist at any time and also to the members of Selangor Bar Secretariat for their support shown to our subcommittee in carrying out our duties during our tenure for 2023/2024.

Sincerely,

Report submitted by:

Nurul Muhaniza Binti Hanafi
Chairperson
Conveyancing Practice Sub-Committee



