

**TADLIS IN HOME FINANCING: A COMPARATIVE STUDY OF MALAYSIA
AND ISLAMIC REPUBLIC OF IRAN**



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5.2 ENHANCED EXECUTIVE SUMMARY

The increasing number of house defect cases in Malaysia demonstrates that the issue needs to be solved. Furthermore, there are cases where the purchasers' rights are violated especially in the issue regarding compensation should there be any defects. Therefore, this study is significant for these objectives; (i) to examine thoroughly the concept of *Tadlis* in housing defects; ii) to analyse the concept of *Khiyār al-Āyb* (option of defect) in Malaysia along with comparisons with I.R. Iran, (iii) to investigate the present provisions of law enforced in Malaysia and I.R. Iran,

Hence, this research investigates, analyzes and compares the practice of *tadlis* in home financing both in Malaysia and Islamic Republic of Iran based on four elements, namely:

- i. Preventive Laws and Regulations
- ii. Supervision authorities (private and public)
- iii. Judicial Board of Financial Institutions

This study has mainly collected information from interview sessions with related authorities both in Malaysia and I.R. Iran. Among the authorities in Malaysia are Construction Industry Development Board, Board of Engineers, The Ministry of Housing and Urban Development and The Tribunal of Housing Defects. Among the authorities in I.R. Iran are Bank Maskan, Municipalities, The Foundation of Islamic Revolution Construction and Board of Engineers.

Based on collected information regarding *tadlis* in Malaysia and Islamic Republic of Iran, there are some strengths and weaknesses that is worth considering to improve and add value to the current system applied in Malaysia.

5.3 INTRODUCTION

Human rights to life and a place to live is an essential element in creating a generation of intellectual and the formation of healthy families. This situation is consistent with the purposes of the Qur'an which states that every pleasure available on earth, including residential houses is gift from God to his servants¹. Thus the prevailing state of emergency today clarified that the moral and ethical man is getting weaker and no longer respected. Humans need shelter and a safe condition to protect themselves from any accident. Islam also sets out some general principles and specific in the harmony among people so that more structured and balanced.

The responsibility of financing to a residence, such as housing should be sensitive to the rights of mankind. This situation should never be in conflict with the requirements of Islamic law who want human rights is conducted fairly without any tricks. Things are in line with the call of God that does not harm another human being on his own right but do not feel themselves executioner on this earth to do damage². Self-interest of some people only hurt themselves but also led to the decline of moral values and ethics of a country. This happens when human greed to capture everything that harmed others.

The issue of fraud in the housing industry, especially in peninsular Malaysia deal with critical issues of today. Confusion and is no understanding between buyers, developers and contractors is determined to be the main reason for the decline in the quality and quantity of housing. Construction of a house based on two concepts that build and sell and sell and buy. The concept is practiced in Malaysia based on the build and sell increasing the number of housing scam³.

Buyers are often victimized by the attitude of developers who recognize the suppliers at the same time, if the buyer does not perform the responsibilities of their rights. Accordingly, the attitude of these developers does not only charged the buyer to pay the loan to the bank each month but also harm the economy. In addition, the government should accommodate all issues, and abandoned housing construction need to find alternatives to solve the housing problem⁴.

¹ Al-Qur'an, An-Nahl 16:80

² Al-Qur'an, As-Syu'ara' 183:26

³ Matheevani Marathanadan, Director Manager National Consumer Complaints Centre (NCCC). Interview on 16 December 2010.

⁴ *Ibid.*