

SECURITIES FOR BANKERS
ADVANCES IN MALAYSIA

BY

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I INTRODUCTIONS

The question of Banker's securities becomes important in the course of a bank's lending operation. Before a loan can be advanced by a bank, a bank must satisfy itself that repayment would be made within the period specified. And that in the event of any default by the borrower, recourse can be had either against property or person to realise any outstanding amount.

Securities are in fact, a kind of insurance against default in payment of a loan or interest or when the loan is regarded as bad. The legal requirements relating to bankers securities as well as requirement as to their documentation must be stringently observed. This need to be done to ensure that no problems will arise in relation to the enforcement of the securities later on.

Generally, there are four basic factors which a banker must consider when deciding whether or not to accept a security for an advance.

They are :-

Firstly, the value of the security. The value of the security must be capable of being ascertained without much difficulty and such value must be consistent over the years. This is because fluctuations in the value may affect the advance made for instance where the value of the security appreciates, it is possible that the borrower may want much more advance than what he has received.

Secondly, realisability. The ease with which the security can be sold is a factor which a banker always bears in mind. Ideally, the security should have some documents of title which can be transferred without much cost or trouble for example, having to go to courts.

Thirdly, a factor closely connected with the above is that of the title of the security. The title to the security should be safe and unquestionable and where there is a need to perfect the title, the banks should not be put into considerable expense or undue trouble to achieve it.

Lastly, a corollary to the third factor is the indefeasibility of the security. This factor needs considerations as prospective purchasers would not want to buy the security if the title can be subject to dispute by third parties which may have a claim on it. Thus, wherever possible, the title to the security must be free from encumbrances or charge in favour of a third party.

From the borrower's point of view a factor to be considered is the stamp duty.

However, where the security is adequate and legally sound, the lender may well consider the stamping charges to assist the borrower to reduce his costs. Of course, this aspect is not regarded as a normal method of what is a good security but considerations of stamping may well be a factor to be weighed by the borrower in deciding whether to accept or reject a loan.