

A STUDY OF
LEGAL PROBLEMS OF HOUSE-BUYERS

BY
MUSRIFAH BT. SAPARDI
DIPLOMA IN LAW
SCHOOL OF LAW AND ADMINISTRATION
MARA INSTITUTE OF TECHNOLOGY
SHAH ALAM, SELANGOR.

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| Perpustakaan Kajian Pentadbiran dan Undang-Undang |
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CHAPTER I

HOUSING DEVELOPERS ACT AND REGULATIONS

1.1 INTRODUCTION

In governing the housing development in Malaysia there is specific legislation called the Housing Developers (Control and Licensing) Act 1966.¹ This Act first came into force on the 29th. August 1969. In addition the Minister of Housing and Local Government in exercising his power under section 24 of the Act has introduced subsidiary legislation on matter pertaining to the Act. The present subsidiary legislation in force is the Housing Developers (Control and Licensing) Regulations 1982.²

1.2 THE SCOPE OF THE ACT AND REGULATIONS

The primary purpose of the Act and the Regulations are to provide adequate protection to the buyers of houses comprised in a housing scheme. Suffian LP (as he then was) in his judgment in the case of S.A.E. Housing Corporation Sdn. Bhd. v Lee Poh Choo ³ stated that the Act was

"...to protect the home-buyers, most of whom are people of modest means, from rich and powerful developers, the Parliament found it necessary to regulate the sale of the houses and to protect buyers by enacting the Act. "4

¹ Act 118 (Revised 1973)

² This Regulation repealed the Housing Developers (Control and Licensing) Rules 1970.

³ (1982) 2 M.L.J 31

⁴ Ibid at page 34

The purpose of the Act was also stated in the case of Khau Dau Yau v Kin Nam Realty Development Sdn. Bhd.,⁵ where George J said;

"The Scheme of the Housing Developers (Control and Licensing) Act 1966 and the Rules 1970⁶ are to provide a measure of protection to purchasers of housing accomodation in a housing development against unscrupulous developers."⁷

1.3 THE APPLICATION OF THE ACT

(a) definition of housing developers

The Housing Developers (Control and Licensing) Act 1966 and the Housing Developers (Control and Licensing) Regulations 1982 apply to all housing developers. Under Section 3 of the Act, a housing developer had been defined to be;

"any person, body of persons, company, firm or socetty (by whatever name described) engaged in or carrying on or undertaking a housing development or desirous of doing so."

In other words, the housing developers under the Act includes any person who is involved in housing development.⁸ The term housing development covers not only persons who are directly involved in the building and construction of the housing accomodation,⁹ but also persons who provide monies for the development of the housing accomodation or for purchasing more than four units of housing accomodation which will be erected by

⁵ (1983) 1 M.L.J 35

⁶ 1970 Rules had been repealed by Housing Developers (Control and Licensing) Regulation 1982

⁷ (1983) 1 M.L.J at page 341

⁸ Section 3 of the Housing Developers (Control and Licensing) Act 1966 (Revised 1973)

⁹ Ibid.