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Announcement

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REMEDIES OF SPECIFIC PERFORMANCE FOR LAND CONTRACTS: LEGAL DEVELOPMENT

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Abstract

This paper discusses the relief of specific performance (SP) and deals with types and nature of contracts that may be ordered by the court to be specifically performed and those that cannot be specifically performed. Specifically, this paper analyses the circumstances in which the courts decide to grant SP and not to grant SP for land contract. Under the law the remedy of SP is discretionary, and such discretion is to be exercised according to well established principles. Employing doctrinal legal research, this study analyses the relevant provisions under the Specific Relief Act 1950 and identifies how the courts applied the provisions to case laws thus developing a precedent on SP for immoveable property. It is found out that the right to sue for specific performance in equity is quite distinct from a cause of action at common law. Specific performance is granted when there are circumstances justifying it. The grant of SP is always subject to conditions. SP is said to be the best remedy for breach of contract for immoveable property. For example, land is normally deemed by the law to have a special value, the loss of which may not be adequately measured or compensated by damages or money (s 11(2) of the Act) unless and until the contrary is performed. All the above must be read subject to section 20 of the same Act that provides for circumstances where SP cannot be granted.

Keywords: Specific performance, land contract, Specific Relief Act 1950, damages

A MODEL FOR EFFECTIVE AND EFFICIENT DISPUTE RESOLUTION PROCESS FOR STRATA SCHEME DISPUTES IN PENINSULAR MALAYSIA

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Abstract

The current dispute resolution processes for strata scheme disputes in Peninsular Malaysia are built on the centrality of adjudicative approach by the Strata Management Tribunal. Whilst a quasi-judicial adjudicative body like the Tribunal offers simpler, quicker and cheaper dispute resolution processes compared to the courts, its orientation may not produce the quality outcomes desired for strata scheme dispute resolution processes such as parties' satisfaction, improvement in the parties' relationships, changes in behaviour and enhancement of people's well-being. One of the reasons for the potential low quality outcomes is that adjudicative approaches in traditional adversarial legal systems normally limit their attention to a narrow view of the dispute without addressing the underlying issues or problems. As a result, the relationships between the individuals involved may deteriorate further and it may become even more difficult for them to work together effectively. Taking into consideration the current legal framework for resolving disputes in strata schemes in Peninsular Malaysia, this paper posits that dispute resolution approaches for strata scheme disputes should not be limited to addressing the legal rights and interests of individuals. They must also consider other important humanistic factors such as neighbour relationships and a sense of community. More importantly, these approaches must provide support for the concept of self-governance in the strata titles system. This paper proposes a comprehensive, integrated, therapeutic and humanistic dispute resolution model that may become a new dispute resolution model for strata scheme disputes in Peninsular Malaysia.

Keywords: dispute resolution, strata schemes disputes, adjudicative approach, therapeutic

THE IMPACT OF THE GLOBAL FINANCIAL CRISIS ON PUBLIC LISTED PROPERTY DEVELOPMENT COMPANIES OF MALAYSIA, SINGAPORE, INDONESIA AND THAILAND

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Abstract

The Global Financial Crisis (GFC) that peaked in 2008 is said to be the worst economic crisis since the Great Depression. The contagion was transmitted to Asian economies indirectly through the collapse in exports. A study was conducted to examine the impact of the GFC on public listed companies and real estate investment trusts (REITS) of Malaysia, Singapore, Indonesia and Thailand. This article only gives focus on public listed companies. The study period was 2004-2012 inclusively to enable the dynamics of the pre-GFC, GFC and post-GFC periods to exert their full impact on the sampled companies. The companies were selected based on a set criteria. Panel Data Regression Analysis reveals that Singaporean (measured by ROAA and ROAE) and Thai companies (measured by ROAE) were affected by the GFC in 2008 and 2009 respectively. Malaysian companies (measured by ROAE) were negatively affected by the cessation of the mini-property boom in 2005 whereas Indonesian companies (measured by ROAA) were affected by the sharp domestic inflation of 2012. A country-by-country macro-analysis was conducted to provide explanation behind these performances.

Keywords: Corporate financial performance, domestic shocks, external shocks, government intervention

HOW MALAYSIAN CONSTRUCTION INDUSTRY PERFORMS IN THE INTERNATIONAL PRODUCTIVITY COMPARISON

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Abstract

Productivity re-emerged as one of the important pillars in the Eleventh Malaysia Plan (2016-2020). Unlocking the potential of productivity is identified as one of the six game changers in the plan. Since the mid-1990s, Malaysia has focused on increasing innovation and productivity to transform from an input-driven to a knowledge based economy. However, Malaysia continues to lag behind many economies. Construction is an important industry because its output is large and it represents a significant part of the economy. Comparing industry productivity between countries provides a crucial information base for research in comparative analysis and policy making. The construction industry is characterized by the heterogeneity and uniqueness of construction product, complexity of its delivery process and industrial structure and the country specificity of construction products. These characteristics exacerbate difficulties of productivity comparison between different economies. Purchasing Power Parity data from the World Bank's International Program 2011 and employment statistics of the International Labour Organisation are used to generate comparative data of 88 economies after removal of outliers. Malaysia achieved 76% of the world's average of construction labour productivity in the year 2011. It had improved from 62% achieved in the year 2005. The results indicate that developed economies achieve higher construction labour productivity than developing economies in both PPPs and by exchange rates measurement methods. There is converging phenomenon of productivity measured in PPPs and exchange rates when economies transit from developing to developed status. It concluded that construction is transforming from a non-internationally traded product to an internationally traded product.

Keywords: Productivity, construction industry, international comparison, purchasing power parity

DETERMINANTS OF CONDOMINIUM PRICES IN SHAH ALAM

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Abstract

Property prices have significantly been increased over the past few years, notably in the rapid developed state such as Selangor. Most of the low-to-mid range income households could not be able to follow the trend of upsurging housing prices, subtly causing housing unaffordability, potential of property bubble and low successful rate on accepted house loans in Malaysia. With all these constraints in property purchasing, low-to-mid range income households are having difficulties in purchasing a good and value property due to the lack of guidance and references in current market. Therefore, this paper aims to study the determinants of property prices in Selangor. As a state capital of Selangor, Shah Alam is selected as the study area in this research while condominium prices are studied and analysed in this research since condominiums are the most famous type of property for low-to-mid range income households in Malaysia. The determinants influencing condominium prices are categorised into locational and neighbourhood factors, structural factors as well as governmental policies. Multiple linear regression analysis is carried out in this research to study determinants of condominium prices in Shah Alam. This research finding indicates that significant determinants affecting the price of condominiums are built-up area, strata titles ownership and number of storeys. The finding of this paper serves as a good reference for low-to-mid range income households in purchasing condominiums in Shah Alam.

Keywords: Multiple Linear Regression, price, condominium, determinant