

No referral to moneylenders

In our last article, we highlighted one of three “Nos” for estate agents and salespersons, i.e. “No dual representation”. The other two are “No referral to moneylenders” and “No handling of transaction monies”. In this article, we will discuss the issue of no referral to moneylenders.

No referral to moneylenders

Estate agents and salespersons play a key role in facilitating property transactions. Conflict of interests may arise if salespersons are allowed to be involved in moneylending because they will not be able to fulfil their obligations to their clients when they also profit from moneylending activities.

Under the Estate Agents Act, estate agents and salespersons are not allowed to refer a client to any moneylender, licensed or otherwise, or receive any commission or other benefit from any moneylender relating to moneylending transaction.

They should not:-

- divulge clients' information to unauthorised parties;
- abet unlicensed moneylenders in their criminal activities; and
- accept any referral from moneylenders who ask them to help sell properties belonging to debtors.

The Council for Estate Agencies (CEA) takes a very stern view of any estate agent or salesperson who works in collusion with a moneylender in estate agency work.

CEA works closely with various government agencies to detect and investigate such cases. CEA will pursue any lead provided by the agencies and any feedback, complaint or information from the public and other sources. CEA will not spare any effort in investigating any such offence and will not hesitate to prosecute any salesperson involved in Court. As such offences cannot be tolerated, any person convicted in Court will not be fit to be a salesperson and will face debarment by CEA from working in the industry.

Case Study 1 – A real estate salesperson was arrested by the Police in October 2012. He was suspected to be involved in loansharking activities. Preliminary investigations indicated that he had facilitated the business of illegal moneylenders by providing clientele contacts to a loanshark syndicate.

Consumers are advised to report to CEA on any estate agent or salesperson who works in collusion with a moneylender.

CEA also works closely with Police to clamp down on illegal activities that may involve the salespersons and illegal moneylenders. Arising from such co-operation, the Police prosecuted a Key Executive Officer (KEO) of an estate agent in Court for illegal moneylending offences.

Case Study 2 – A KEO was prosecuted by Police in Court in November 2012 for illegal moneylending offences. He was alleged to have issued loans to sellers of HDB flats with amounts ranging between \$5,000 and \$15,000. The sellers would then repay the loans with interest from the profits obtained upon completion of the sale of their flats, which was arranged by the said KEO.

Consumers should avoid borrowing money from their salespersons, even if it is an interest free loan. Consumers who sell their flats should also avoid getting an “advance” from their salesperson which would be deducted from the proceeds which they will eventually receive for the sale of their flat.

If consumers borrow money from their salespersons, the salesperson may be placed in a situation of conflict of interest. The salesperson may try to recover his loan and this conflicts with his responsibility in safeguarding the consumer’s interest in the property transaction.

Consumers who sell their flats should manage the sales proceeds themselves. They should think carefully and should not commit in advance to any distribution of their sales proceeds to other parties, such as to those to whom they had borrowed monies. An option to adopt is for the entire sales proceeds to go to the seller and he can then decide how to allocate or distribute it, if it is necessary.

The flat is a valuable asset and a home for consumers. Do not be induced into using it in “exchange” for monetary loans in which high interest rates are charged. It should also not be used to “repay” loans which the flat owners may have borrowed from moneylenders or other persons. If the sellers sell their flats and repay their creditors, they may not have enough money to buy another flat. They are also not allowed to apply for a rental flat within 30 months of selling their flat. Therefore consider carefully before making any transaction decision involving your property.

Your salesperson will advise you on your property transaction. He will not get involved or refer the consumer to a moneylender nor obtain any benefit from the moneylender. He may advise you on the finances required for the property transaction but he will not play any role in determining how and to whom the sales proceeds are to be distributed.