

S/N 4 – Checking the Option Exercise Fee Cheque

Facts of Case

The Respondent represented the seller in the sale of his HDB flat ('Property'). After viewing the Property, the buyer and his father (the Complainant) decided to purchase the Property.

The seller issued the Option to Purchase ("OTP"), in the standard HDB prescribed form, to the buyer and the buyer paid \$1,000 to the seller as Option Fee.

Several days later, the buyer and Complainant met the Respondent and the seller at the Property to exercise the OTP. The Complainant brought the Option Exercise Fee cheque which he had prepared using a cheque machine. It was mistakenly issued for \$40,000.07 instead of \$4,000.00.

At the meeting of such persons at the Property, the Complainant passed the cheque to the Respondent for him to fill in the seller's name. The Respondent took the cheque and wrote in the full name of the seller as the drawee and then passed the cheque to the Complainant who handed it to the seller.

Subsequently, the Complainant realised that he had issued the Option Exercise Fee cheque in the wrong amount of \$40,000.07. HDB resale procedure specifies that the option fee and option exercise fee must not exceed \$5,000.

The Complainant tried to recover the excess payment of \$36,000.07 but the seller only returned a total amount of \$9,000 to him and went into bankruptcy. The sale and purchase of the Property did not proceed to completion.

Charge

The Respondent was charged for failing to comply with HDB resale procedure as he had facilitated the payment of the Option Exercise Fee by a cheque for \$40,000.07, in contravention of paragraph 4(1) read with paragraph 4(2)(e) of the Code of Ethics and Professional Client Care.

Outcome

The Respondent pleaded guilty to the Charge.

The DC considered that the Respondent had a duty to check the cheque to comply with the HDB resale procedure which provided that the aggregate of the Option Fee and Option Exercise Fee must not exceed \$5,000.00.

A financial penalty of \$3,000 and suspension of 4 months was imposed upon the Respondent. Fixed costs of \$1,000.00 were also awarded to the Prosecution.