

Note: This case was referred to a CEA Disciplinary Committee (DC) before the operationalisation of the Estate Agents (Amendment) Act 2020 on 30 July 2021. With the Act amendments, the maximum financial penalty for disciplinary breaches has been raised and a DC can impose a higher financial penalty on errant offenders.

S/N 9/2014 – Failing to Act in Accordance with Client’s Instructions to Purchase Property with Vacant Possession and Misrepresentation to Client

Facts of Case

The Respondent represented a buyer who wished to purchase a property with vacant possession at a certain price.

The Respondent brought her client’s offer to purchase, with the option fee cheque, to the seller. The seller did not agree with such offer and proceeded instead to issue an option to purchase (OTP) for the proper subject to tenancy. Despite her client’s instructions, the Respondent accepted such OTP and allowed the seller to keep the option fee cheque.

The Respondent then proceeded to send an SMS message to her client stating that the vendors had accepted her client’s offer to purchase the property (i.e. with vacant possession) when she knew that this was a misrepresentation of the true state of affairs.

Further, when she handed the OTP to her client, the Respondent did not point out that the property was being sold subject to tenancy which was contrary to her client’s instructions.

Charges

The Respondent was charged for the following offences:

Charge 1

For failing to render professional service to her client in accepting the OTP to sell the property subject to tenancy, and allowing the seller to retain the option fee cheque, which was contrary to the client’s instructions, in contravention of paragraph 6(1) read of the Code of Ethics and Professional Client Care.

Charge 2

For misrepresenting to her client that his offer, to purchase the property with vacant possession, had been accepted by the seller, in contravention of paragraph 6(1) read with 6(2)(b) of the Code of Ethics and Professional Client Care.

Outcome

Pursuant to a plea bargain, CEA proceeded with Charge 1, which the Respondent pleaded guilty to, with Charge 2 being taken into consideration for purposes of imposition of penalty.

The DC suspended her as a salesperson for 2 months and imposed a financial penalty of \$2,000.

Fixed costs of \$1,000 were also imposed upon the Respondent.