

S/N 4/2024 – Failing to Advise Clients on Applicability of HDB’s Housing Loan Rule and Making False Claims about Clients

Facts of Case

The Respondent represented the prospective buyers, H and W (the “**Buyers**”), in the purchase of a Housing and Development Board (“**HDB**”) flat (the “**Flat**”). The Respondent was introduced to the Buyers by his fiancée, RES Y.

In May 2022, W informed RES Y of the following:

- (a) The results of the Buyers’ Housing Loan Eligibility (“**HLE**”) application, which showed a maximum loan amount of \$305,100 for a 25-year loan repayment period;
- (b) The Buyers’ respective Central Provident Fund (“**CPF**”) Ordinary Accounts (“**OA**”) balances; and
- (c) That while W received CPF contributions from 2 different companies, she only had 1 employer.

During a meeting with the Respondent and RES Y, the Buyers expressed their financial concerns and made it clear that they were unwilling to pay any cash over valuation (“**COV**”) for their intended flat purchase.

Based on the information provided by the Buyers, and on the basis that no additional cash top-up would be required, the Respondent performed financial calculations and informed the Buyers that their maximum purchase price should be limited to around \$410,000 to \$440,000, taking into account the following:

- (a) The maximum HLE loan amount of \$305,100;
- (b) The Buyers’ CPF OA balances; and
- (c) As W was a Singapore Permanent Resident, the Buyers would be eligible for a CPF housing grant of \$40,000 and an enhanced CPF grant (“**EHG**”) of \$70,000.

RES Y created a group chat on WhatsApp (the “**Group Chat**”) with the Buyers and the Respondent. On 15 May 2022, RES Y sent a message in the Group Chat to inform the Buyers that the maximum purchase price they could afford was \$471,000, and provided the computation for how this was derived.

The Respondent asked the Buyers to confirm that their income declarations were correct, as the grants would be calculated based on their income submissions. H disclosed that he had changed jobs within the last 12 months, previously working in a commission-based job. In response, the Respondent cautioned the Buyers against purchasing a flat that was priced above \$471,000, particularly if the grants were contingent on their declared incomes.

Subsequently, the Buyers viewed the Flat and expressed an interest in it. A purchase price of \$429,888 was eventually agreed upon, with an estimated COV of \$10,000. The Respondent and RES Y did not redo any financial calculations as the agreed purchase price was much lower than the projected maximum purchase price of \$471,000, and they simply assumed that no issues would arise.

On 20 May 2022, RES Y requested copies of the Buyers' NRICs for the preparation of the Option to Purchase ("**OTP**") through the Group Chat, which were promptly provided. As such, the Respondent was aware of the Buyers' ages. Thereafter, an OTP was issued to the Buyers. On 25 May 2022, the Respondent updated the Buyers that they were not required to pay COV for the purchase.

On 4 June 2022, the OTP was exercised. The Buyers also signed an exclusive estate agency agreement with the Respondent's estate agent and agreed to pay commission of \$4,599.80.

Between 4 and 6 June 2022, the Respondent and RES Y sought clarifications from the Buyers on their income documents through the Group Chat. H informed them that W had dual income for some months and provided her payslips.

On 6 June 2022, a resale application for the Flat was submitted to HDB. On 6 July 2022, the Respondent informed the Buyers that HDB had accepted the resale application, with completion scheduled on 31 August 2022.

However, on 10 July 2022, when the Respondent informed the Buyers to endorse the resale application, it was discovered that the Buyers had to pay an unexpected cash component of \$36,488 towards the purchase price on completion (the "**Shortfall**"), as there was only a CPF housing grant of \$50,000 and EHG of \$32,463 given to the Buyers.

Initially, the Respondent thought that HDB had made an error and suggested that the Buyers call HDB to clarify. Subsequently, the Respondent realized why there was the Shortfall and admitted to the Buyers that he had "*overlooked on the 95 years ruling*" and made a mistake. In gist, the 95-year rule provided that where the remaining lease for a HDB resale flat is long enough for all buyers to stay until they are 95 years old, the buyers can loan a sum up to the applicable Loan-to-Value ("**LTV**") limit, which was 85% at the material time. Otherwise, the loan available to the buyers would be pro-rated from 85%, based on the extent that the youngest buyer could reside in the flat.

The Respondent had failed to take into account the application of the 95-year rule in his financial calculations and wrongly assumed that the Buyers would be eligible for the maximum HLE loan amount, resulting in the Shortfall. As W would only be able to reside in the Flat until she is 81 years old based on the Flat's remaining lease, the Respondent should have pro-rated the loan amount accordingly.

On 17 July 2022, H suggested in the Group Chat that the Respondent had been negligent. Unhappy, the Respondent blamed the Buyers instead for causing the shortfall and being unable to afford the Flat. The Respondent alleged that:

- (a) The Buyers did not receive the expected \$70,000 EHG because of W's dual income, which he claimed that he was not informed of and had relied on the figures provided by the Buyers; and

- (b) The Buyers did not receive the expected maximum HLE loan amount likely due to their “*bad credit rating*”.

The Respondent’s allegations were untrue as the Buyers did not have any outstanding loans with banks or HDB, and did not have a bad credit rating. W had also informed about her dual income at the outset and provided her income documents. Moreover, the Respondent was well aware of W’s income status since the loan documents were submitted by the Respondent to HDB.

With the assistance of the Respondent and RES Y, the Buyers tried to salvage the situation, including appealing to HDB for a higher loan amount or larger CPF grant, and also appealing to their Member of Parliament, but all these attempts were unsuccessful.

The situation caused significant stress for the Buyers, particularly H, who were concerned that they had to pay damages to the Sellers if they could not proceed with the purchase.

The sale of the Flat to the Buyers was eventually aborted. As a result, the Buyers suffered direct financial loss in the total sum of \$2,700. The sellers of the Flat (the “**Sellers**”) had also committed to the purchase of another HDB flat and were in turn affected:

- (a) The Sellers were unable to complete the sale of the Flat with the Buyers and had to request to delay the completion of their next HDB flat; they incurred a late completion charge of \$4,489.21;
- (b) There was an approximate 4 months’ delay to the sale of the Flat; the Sellers had to obtain a bridging loan of \$195,390 to finance the purchase of their next HDB flat and pay interest of \$1,796.10; and
- (c) The Sellers suffered additional inconvenience when they were trying to find new buyers for the Flat, as the Ethic Integration Policy had changed in the intervening period.

Charges

The Respondent faced the following 2 charges:

Charge 1 (Proceeded)

Failing to conduct his business and work with due diligence, despatch and care, by failing to advise the Buyers on the applicability of HDB’s housing loan rule which provides that the remaining lease of the flat has to cover the youngest buyer of the flat up to the age of 95, failing which the LTV limit for his/her mortgage would be reduced, in contravention of paragraph 5(1) of the Code of Ethics and Professional Client Care (the “**Code**”).

Charge 2

Failing to render professional and conscientious service to the Buyers, when he falsely claimed that they were not able to secure a higher HLE and EHG due to their alleged bad credit rating and dual income situation, and not due to any LTV limit issues, in contravention of paragraph 6(1) read with paragraph 6(2)(b) of the Code.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 1, with Charge 2 taken into consideration for sentencing.

The DC imposed the following financial penalty and disciplinary order on the Respondent:

Charge 1: A financial penalty of \$5,000 and a suspension of 4 months.

Fixed costs of \$2,000 was also imposed on the Respondent.