

S/N 11/2016 – Failing to Inform Clients that the HDB Flat that they Purchased Had A Remaining Lease Duration of Less Than 60 Years and of the Relevant Restrictions on the Use of CPF Monies for the Purchase of the Flat

Facts of Case

The Respondent, a registered salesperson at all material times, was engaged by a couple (the “**Buyers**”) who was looking to purchase a Housing and Development Board (“**HDB**”) flat (the “**Flat**”) in the same block of flats where one of their mothers was residing.

The Flat had a remaining lease duration of less than 60 years and there were restrictions on the maximum amount of CPF monies that can be used in the purchase of such HDB flats (the “**CPF Restrictions**”).

The CPF Restrictions were contained in a Central Provident Fund (“**CPF**”) circular (titled “*Use of CPF for the purchase of HDB flats with Remaining Lease of less than 60 years*”) dated 27 June 2013, and in a CEA Practice Circular 05-13 dated 10 July 2013, which highlighted the CPF circular and was issued to all estate agents. The CPF circular also indicated a formula for the calculation of the maximum amount of CPF monies that can be utilised for the purchase of HDB flats with a remaining lease duration of less than 60 years (the “**CPF Formula**”).

The Buyers informed the Respondent that they intended to take a loan from HDB and use the monies in their CPF Ordinary Accounts to finance the HDB housing loan.

However, the Respondent did not realise and hence, did not inform the Buyers that the Flat had a remaining lease duration of less than 60 years and of the CPF Restrictions. Had the Respondent used the CPF Formula, she would also have realised that the Buyers would only be able to use a maximum CPF amount of approximately \$299,240 to purchase the Flat.

Not knowing of the CPF Restrictions, the Buyers proceeded to exercise the Option to Purchase for the Flat at a purchase price of \$535,000 and paid a deposit in the sum of \$3,500 (the “**Deposit**”).

At their first appointment with HDB, the Buyers were informed by a HDB staff that the Flat had a remaining lease duration of less than 60 years and of the CPF Restrictions. The Buyers were shocked to find out about the CPF Restrictions and were concerned that they would not be able to service the remaining monthly HDB loan instalments with cash after fully utilising the maximum CPF amount possible to finance the loan. Eventually, they decided not to proceed with the purchase of the Flat. As a result, they forfeited the Deposit.

The Buyers also had to engage lawyers for legal advice as the sellers of the Flat sought compensation from them due to their failure to proceed with the purchase of the Flat and to pursue their claim against the Respondent's estate agent for the Deposit. The Buyers incurred a sum of \$2,500 in legal fees.

Charges

The Respondent faced the following 2 charges:

Charge 1

For performing estate agency work without the relevant knowledge to perform the work that she was engaged to perform, by failing to keep herself informed of the relevant restrictions and policies applicable to the use of CPF monies for the purchase of HDB flats with a remaining lease of less than 60 years, in contravention of paragraph 4(1) read with 4(2)(c) of the Code of Ethics and Professional Client Care ("**Code**").

Charge 2

For failing to render professional and conscientious service to her client, by failing to inform her clients that the Flat they purchased had a remaining lease duration of less than 60 years and of the relevant restriction on the use of CPF monies to purchase the Flat that would limit the amount of monies that her client could use from her CPF Ordinary Account to repay the housing loan made by the HDB, despite being aware of her client's intentions to finance the purchase of the Flat using monies from her CPF Ordinary Account, in contravention of paragraph 6(1) of the Code.

Outcome

The Respondent pleaded guilty to Charges 1 and 2. The Disciplinary Committee imposed the following financial penalty and disciplinary orders on the Respondent:

Charge 1: Suspension of 4 weeks.

Charge 2: A financial penalty of \$1,500 and suspension of 5 weeks.

The suspension periods were ordered to run concurrently and fixed costs of \$1,000 was imposed on the Respondent.