

## **S/N 4/2014 – Failing to Protect Client’s Interest by Delaying Issue of OTP and Misleading Client of Seller’s Availability**

### **Facts of Case**

The Complainant and his fiancée (the couple) were interested to buy a HDB flat which they saw in an advertisement posted by the Respondent’s supervisor, who was representing the sellers.

During the viewing of the flat, the Complainant was told that the Respondent would represent him if he wished to purchase the flat. The Complainant was initially not inclined to engage the Respondent as his salesperson but agreed to do so.

At a further viewing, the couple agreed to purchase the flat at the price of \$675,000. However, as no HDB option to purchase (OTP) form was then available, the sellers and the couple confirmed their verbal agreement of sale and purchase at this price with an acknowledgment letter signed by both parties. Against this letter, the Complainant handed over a deposit of \$1,000, which was meant to be the option fee.

At the same time, the Respondent completed the HDB buyer’s resale checklist with the couple. She also requested the Complainant to sign an exclusive estate agency agreement, which provided for commission of 1% of the price to be paid to her. The Complainant felt that the amount of commission was excessive and asked to take back the estate agency agreement to consider.

The Complainant later asked the Respondent to forward him the sellers’ OTP and valuation report to facilitate his bank loan application. The Respondent said that she could only pass him the documents two days later as the sellers were only available to meet up then.

However, the Complainant found out the contact number of the sellers on the same day and learnt that in fact, they were available to meet him and his fiancée that very night or on the following day.

Meanwhile, the Respondent’s supervisor asked her to attend a viewing by another potential purchaser at the same flat on the same evening. The potential purchaser was not represented by a salesperson and agreed to engage the Respondent when she offered to represent him. The potential purchaser agreed to purchase the flat and was issued an OTP.

The Complainant was aggrieved that he was not able to proceed with his purchase of the flat and complained to CEA.

**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.

## **Charges**

The Respondent was charged for the following offences:

### **Charge 1**

For failing to act with honesty, fidelity and integrity by failing to protect and promote the interests of her client in that she delayed issuance of the OTP to the Complainant because he had not yet signed an exclusive estate agency agreement as requested by her, in contravention of paragraph 6(1) read with paragraph 6(2)(a) of the Code of Ethics and Professional Client Care.

### **Charge 2**

For misleading conduct that may bring disrepute to the estate agency industry in that she misled her clients that the sellers were not available to meet with them to sign the OTP which is not true as she had arranged for the sellers to meet another potential purchaser who ultimately bought the property, in contravention of paragraph 7(1) read with paragraph 7(2)(a) of the Code of Ethics and Professional Client Care

## **Outcome**

Following a trial, the DC found that the Respondent was guilty of the 2 charges. The DC imposed the following penalties on the Respondent:

**Charge 1:** Suspension of 6 months and a financial penalty of \$4,000.

**Charge 2:** Suspension of 7 months and a financial penalty of \$6,000.

The suspensions were ordered to run concurrently and fixed costs of \$1,000 were imposed upon the Respondent.