

S/N 13/2019 – Failure to Act in a Reasonable Manner Towards Other Persons by Misrepresenting the Type of Floor Tiling to the Purchasers who Bought the Property from her Clients; and Failure to Conduct her Work with Due Diligence and Care by Failing to Advise her Clients Correctly on the Buyer’s Stamp Duty Payable in her Clients’ Purchase of a Property

Facts of Case

Sometime in October 2016, the Respondent was engaged by a husband and wife couple (husband (“H”) and wife (“O”)) to sell their HDB flat (“HDB flat A”) and to buy a bigger HDB flat (“HDB flat B”).

Sometime between October 2016 and November 2016, a couple (husband (“A”) and wife (“L”)) went for 3 viewings of HDB flat A which were conducted by the Respondent. During one of these viewings, A asked the Respondent about the living room floor tiles of HDB flat A. Without conducting any checks, the Respondent stated to A that the living room floor tiles were marble tiles. Investigations revealed that the marble living room floor tiles was one of the relevant factors that eventually led to A and L buying HDB flat A.

On 28 November 2016, the Respondent informed her clients that A and L had offered to buy HDB flat A for \$388,888. H informed the Respondent that he needed to consult O on this offer before getting back to her with their response to the offer. In the meantime, the Respondent arranged for A and L to view HDB flat A for the 3rd time on 29 November 2016.

On 29 November 2016, A and L attended the 3rd viewing of HDB flat A with their real estate salesperson (“LP”). During this viewing, the Respondent informed A and L that her clients (who were present in HDB flat A) had accepted their offer of \$388,888 for HDB flat A. The Respondent therefore issued the Option to Purchase for HDB flat A to A and L and A and L handed over a cheque for the \$1,000 option fee to the Respondent’s clients. With LP’s assistance, A and L applied for the valuation report of HDB flat A.

On or around 5 December 2016, A and L received the valuation report of HDB flat A and they discovered that the living room floor tiles were not marble tiles but glazed homogeneous tiles, contrary to what the Respondent had indicated to them.

As the living room floor tiles were of particular relevance to A and L, they confronted the Respondent who denied that she had told them that the living room floor tiles were marble tiles. The Respondent claimed that she had told them that the living room floor tiles were homogenous tiles. A and L then told the Respondent that they would forgo the purchase of HDB flat A and bring the case up to the authorities. At this point, the Respondent offered to compensate A and L approximately \$2,000 as compensation. A and L accepted the Respondent’s offer of compensation after some consideration.

On or around 8 December 2016, the Respondent paid A and L the compensation of approximately \$2,000.

On 9 December 2016, A and L exercised the Option to Purchase for HDB flat A.

Sometime between November 2016 and December 2016, the Respondent wrongly advised her clients that the buyer's stamp duty for their purchase of HDB flat B was to be calculated based on the purchase price only, when in fact, it was to be calculated based on the purchase price or the market value of HDB flat B, whichever is the higher amount. Owing to this wrong advice, her clients had to pay \$600 more in buyer's stamp duty.

The Disciplinary Committee ("**DC**") concluded that: -

- a) the Respondent's misrepresentation of the living room floor tiling of HDB flat A was made negligently without any premeditation for the following reasons: -
 - i. the Respondent's response to A's and L's unexpected enquiry of the living room floor tiling was unexpected and A and L had attended the 3rd viewing of HDB flat A on 29 November 2016 with their salesperson LP;
 - ii. the DC had no reason to believe that the Respondent had any prior knowledge of the material used for the living room flooring; and
 - iii. the Respondent did not have any qualification or training to distinguish marble and homogeneous tiles.

The DC took into consideration the following mitigating facts set out in the Respondent's mitigation plea: -

- a) the Respondent had compensated A and L with approximately \$2,000 for the loss or damage that the latter had suffered;
- b) the Respondent did not have an adverse record with CEA;
- c) the compliments the Respondent had received for her work in the real estate agency industry; and
- d) the Respondent's early admission of the charges preferred against her.

Charges

The Respondent faced the following 2 charges:

Charge 1 (Proceeded)

Failing to act in a reasonable manner towards other persons in the conduct of estate agency work on behalf of her clients (H and O) in facilitating the sale of HDB flat A to the buyers (A and L), when she misrepresented to the buyers that the living room floor tiles of HDB flat A were marble tiles, when in fact, they were glazed homogeneous tiles, in contravention of paragraph 6(3) read with paragraph 6(4)(c) of the Code of Ethics and Professional Client Care (the "**Code**").

Charge 2

Failing to conduct her work with due diligence and care when she failed to advise her clients (H and O) who were the buyers of HDB flat B that the buyer's stamp duty was to be calculated based on the purchase price or the market value of HDB flat B, whichever is the higher amount and not calculated based only on the purchase price, in contravention of paragraph 5(1) of the Code.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 1 and agreed for Charge 2 to be taken into consideration for the purposes of sentencing. The DC found the Respondent liable for disciplinary action to be taken against her for the disciplinary breach in Charge 1.

Having considered CEA's Sentencing Submissions and the Respondent's mitigation plea, the DC imposed the following financial penalty and disciplinary order on the Respondent:

Charge 1: A financial penalty of \$1,500 and a suspension of 1 month.

Fixed costs of \$1,000 was imposed on the Respondent.