

DON'T LET THE GRASS GROW UNDER YOUR FEET

Fred appointed Messrs Doo and Co ("IP") to discharge his condominium from Bank ABC upon the settlement of his property loan with the said bank. The bank forwarded the relevant documents to the IP for that purpose.

Three months later, Bank X initiated a bankruptcy proceeding against Fred to recover the judgment sum owed by him to the bank. Fred decided to refinance the property with Bank Z in order to pay the judgment sum. However, he was informed by the loan officer at Bank Z that the refinancing could not be done since the property was still charged to Bank ABC.

Astounded with the news, Fred decided to conduct his own land search. He discovered that his condominium was still charged to Bank ABC despite the fact that he had already settled the loan with Bank ABC and had already paid full legal fees to the IP to discharge the property.

Subsequently, Fred was declared bankrupt due to his failure to settle the judgment sum to Bank X. Fred sued the IP alleging negligence on the part of the IP's for failing to discharge the property. He further alleges that the IP's negligence made him lose the chance to refinance his property and pay the judgment sum to Bank X.

In reviewing the IP's risk management processes to determine if their original Base Excess should be reinstated, the Insurer found the following:



The checklists that were used by the IP did not include details for due dates or deadlines in respect of the next item that the IP was supposed to follow up.



The IP did not maintain a "Keep in View" ("KIV") system to track of important dates and urgent matters.



The checklists were too generic. The IP adapted the sub-sale financing checklist into the checklists for properties purchased from the developers as well as for discharge of charge without any modifications.



Certain checklists employed by the IP for other conveyancing files were not complete nor comprehensive. For instance, the checklist in a sale and purchase transaction where the vendor or purchaser is a company, it did not contain the requirement for board of directors' and/or shareholders' resolution and other need for corporate documents.