



PRACTICE AREA Step-by-step CHECKLIST

Sub-sale of Property WITH TITLE – Purchaser

. 1 .

File reference:

DISCLAIMER This Checklist is only intended to provide a general overview of the matters that should be considered in managing your case/transaction. The information provided in this Checklist is not intended to be legal advice. Many factors may affect the applicability of any steps or procedures set out here to your case and consequently you should apply your own discretion or seek appropriate advice (where applicable) before relying on these procedures.

		Date DUE	Date DONE	Remarks
1. INITIAL CONTACT AND PRELIMINARIES				
1.1	Ensure there is no conflict of interest or potential conflict of interest. Note: The firm must not act or purport to act for both the Vendor and the Purchaser in the same transaction.			
1.2	Initial instructions:			
1.2.1	To ascertain if a letter of offer has been executed by the parties. If yes, to obtain a copy and to ascertain deadline for execution of the Sale and Purchase Agreement, if any. Note: Deadline for execution of Sale and Purchase Agreement.			
1.2.2	To obtain instructions as regards the transaction including names of parties, property details, payment terms, particulars of any tenancies in respect of the property and if so, whether property sold with vacant possession or subject to existing tenancy, name and contact particulars of Vendor's solicitors, if any and any other salient/principle terms.			
1.2.3	To obtain, if available, a copy of the following documents:			
a.	For individuals: National Registration Identity Card ("NRIC") (or passport, if foreigner) of Vendor and Purchaser.			



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		Date DUE	Date DONE	Remarks
b.	For companies: certified true copy of the Memorandum and Articles of Association, latest Forms 49, 44 and all Forms 24, and the Board of Directors' and members' (if applicable) resolutions authorising the entry into the Sale and Purchase and execution of the Sale and Purchase Agreement and associated documents. Note: The Purchaser's Board of Directors' resolution should state clearly the authorisation to affix the common seal on the Instrument of Transfer (Form 14A).			
c.	Issue document of title, previous Sale & Purchase Agreement, Loan/Facility Agreement.			
d.	Current quit rent receipt, assessment receipt and utility bills.			
	Note: If not available immediately, to ensure that these are all obtained upon signing of the Sale and Purchase Agreement. (See Section 3 below.)			
1.2.4	If the property is charged, to ascertain from the Vendor that the redemption sum does not exceed purchase price. Request and obtain, if possible, from the Vendor a copy of the latest loan statement.			
1.2.5	Advise Purchaser of your charges. Note: The provisions of the Solicitors' Remuneration Order 2005 in respect of the mandatory scale of rates for the conduct of sale and purchase transactions and related matters thereto.			
1.3	Conduct search on the land title.			
a.	Date search requested:			
b.	Date search results received:			
1.4	Review results of land search:			
a.	Take note of any encumbrances on the property including charges or caveats, restrictions in interest and express conditions, categories of land use, balance of lease.			





	Date DUE	Date DONE	Remarks														
b. Highlight results to Purchaser if the search discloses anything different or more than what the Purchaser may have been informed by the Vendor or believes to be the case.																	
2. PREPARATION OF THE SALE AND PURCHASE AGREEMENT																	
2.1 Where the Vendor has appointed a solicitor, contact the Vendor's solicitor to agree as to who will prepare the Sale and Purchase Agreement. In the absence of any agreement to the contrary, it is the Vendor's solicitors who should prepare the draft Sale and Purchase Agreement.																	
2.2 Conduct bankruptcy/winding up/NRIC/company searches on Vendor and Purchaser: You may list the names and NRIC/company no of the Vendors and Purchasers here: <u>A. Vendor(s):</u> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Name:</td> <td style="width: 50%;">NRIC No/Company No:</td> </tr> <tr> <td>i.</td> <td></td> </tr> <tr> <td colspan="2">Type of search and date requested:</td> </tr> <tr> <td colspan="2">Search result obtained:</td> </tr> <tr> <td>ii.</td> <td></td> </tr> <tr> <td colspan="2">Type of search and date requested:</td> </tr> <tr> <td colspan="2">Search result obtained:</td> </tr> </table>	Name:	NRIC No/Company No:	i.		Type of search and date requested:		Search result obtained:		ii.		Type of search and date requested:		Search result obtained:				
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<p>B. Purchaser(s):</p> <p>Name: _____ NRIC No/Company No: _____</p> <p>i. _____</p> <p>_____</p> <p>Type of search and date requested:</p> <p>Search result obtained:</p> <p>_____</p> <p>ii. _____</p> <p>_____</p> <p>Type of search and date requested:</p> <p>Search result obtained:</p>			
<p>2.3 Draft Sale and Purchase Agreement/review draft Sale and Purchase Agreement prepared by the Vendor's/ Purchaser's solicitors and forward to Purchaser for comments/instructions.</p>			
<p>2.4 Finalise draft Sale and Purchase Agreement with Purchaser and the Vendor/Vendor's solicitors. This may comprise several rounds of negotiations and/or several exchanges of the draft Sale and Purchase Agreement between the parties. At all times, be mindful of the deadline to execute the Sale and Purchase Agreement (See Section 1.2 .1 above). It may be necessary to seek an extension of the deadline for executing the Sale and Purchase Agreement if it is apparent that the deadline may not be achievable.</p>			



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3. EXECUTION OF THE SALE AND PURCHASE AGREEMENT				
3.1	Execution of Sale and Purchase Agreement and Form 14A by the Purchaser and issuance to the Vendor/Vendor's solicitors, as the case may be, of the payment of the deposit, if any, towards the purchase price by the Purchaser.			
3.2	Raise bill for provisional disbursements for the transaction for Purchaser's immediate settlement. This should include estimated stamp duty payable on the Form 14A and the registration fees for the Form 14A, lodgement of a private caveat and the withdrawal of the private caveat.			
3.3	Execution of Sale and Purchase Agreement, private caveat/WP forms, Statutory declaration etc, state authority's consent forms/Form I/J and Form 14A by the Vendor and receipt of the deposit and retention sum under Real Property Gains Tax ("RPGT"), if any, towards the purchase price by the Vendor/Vendor's solicitors, as the case may be.			
3.4	Receive duly executed Sale and Purchase Agreement and Form 14A from the Vendor/Vendor's solicitors.			
3.5	Stamp the Sale and Purchase Agreement.			
3.6	Forward stamped original Sale and Purchase Agreement and a stamped copy of the Sale and Purchase Agreement to Purchaser.			
3.7	Forward stamped copy(ies) of the Sale and Purchase Agreement to the Vendor's solicitors.			
3.8	Where Sale and Purchase Agreement provides for the deposit of the original title or any other documents with Vendor's solicitors as stakeholders pending completion, seek written confirmation from the Vendor's solicitors that the relevant documents have been duly deposited with them. If the Vendor is not represented and the Sale and Purchase Agreement provides for the Vendor to deposit the original title or any other documents with the Purchaser's solicitors as stakeholder, obtain such documents from the Vendor and retain accordingly.			
3.9	To ensure that the documents listed in Section 1.2.3 have been obtained.			





		Date DUE	Date DONE	Remarks
4.	INSTRUMENT OF TRANSFER (FORM 14A)			
4.1	Submit Form 14A for adjudication of stamp duty payable.			
4.2	KIV for the issuance of the Notice of Assessment of stamp duty payable.			
4.3	Once the Notice of Assessment is received, note deadline for payment of the stamp duty assessed as payable (30 days from the date of the Notice of Assessment). Ensure payment of the stamp duty assessed as payable within the deadline so as to avoid penalties for late payment.			
4.4	Obtain the Stamp Certificate evidencing payment of the relevant stamp duty on the Form 14A.			
4.5	KIV for presentation of the Form 14A. Note that there is a penalty imposed if the Form 14A is presented for registration after the expiry of three months of the date of the Form 14A. As far as possible, try to ensure that presentation is done within the said three months .			
5.	PRIVATE CAVEAT			
5.1	Prepare Form 19B (Entry of Private Caveat) and accompanying statutory declaration for the entry of a private caveat over the property pending completion of the sale.			
5.2	Prepare Form 19G for the Withdrawal of Private Caveat.			
5.3	Arrange for Form 19B, statutory declaration in support thereof and Form 19G executed by Purchaser.			
5.4	Lodge the Form 19B and statutory declaration and, retain duly executed Form 19G pending completion of the sale and purchase.			
6.	CONDITIONS PRECEDENT, IF ANY			
6.1	Where the sale and purchase is subject to the fulfilment of any conditions precedent (<i>eg State Authority, Economic Planning Unit ("EPU")</i>), note the deadline for the fulfilment of conditions precedent.			



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a. Date by which Condition(s) Precedent to be fulfilled:																							
b. If applicable, Extended Date by which Condition(s) Precedent to be fulfilled:																							
<p>6.2 Note also for each of the conditions precedent to be fulfilled, the party responsible for the attendance to each of the conditions precedent and any individual deadlines to be observed in respect of the fulfilment of the individual conditions precedent and/or the submission of any relevant application thereto.</p> <p>You may list the conditions precedent ("CP") here and mark the deadlines if any (*strike out as appropriate).</p> <table border="1"> <tr> <td>Condition Precedent:</td> <td>Party responsible for attendance to CP:</td> </tr> <tr> <td>a.</td> <td>Vendor/Purchaser *</td> </tr> <tr> <td></td> <td>Date submitted:</td> </tr> <tr> <td></td> <td>Date approval obtained/CP fulfilled:</td> </tr> <tr> <td>b.</td> <td>Vendor/Purchaser *</td> </tr> <tr> <td></td> <td>Date submitted:</td> </tr> <tr> <td></td> <td>Date approval obtained/CP fulfilled:</td> </tr> <tr> <td>c.</td> <td>Vendor/Purchaser *</td> </tr> <tr> <td></td> <td>Date submitted:</td> </tr> <tr> <td></td> <td>Date approval obtained/CP fulfilled:</td> </tr> </table>	Condition Precedent:	Party responsible for attendance to CP:	a.	Vendor/Purchaser *		Date submitted:		Date approval obtained/CP fulfilled:	b.	Vendor/Purchaser *		Date submitted:		Date approval obtained/CP fulfilled:	c.	Vendor/Purchaser *		Date submitted:		Date approval obtained/CP fulfilled:			
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7. PURCHASE PRICE				
7.1	Relevant details pertaining to purchase price:			
a.	Total purchase price: RM			
b.	Deposit: RM			
c.	Retention under RPGT: RM			
d.	Balance purchase price: RM			
e.	Rate of late payment interest: % pa			
f.	If the Purchaser is completing the purchase with the assistance of a loan, the Loan Sum: RM			
g.	If Purchaser has obtained loan, difference between balance purchase price and the Loan Sum: RM			
7.2	<p>Deadlines for payment of the balance purchase price</p> <p>The Sale and Purchase Agreement should stipulate the Completion Date/Completion Period and Extended Completion Date/Extended Completion Period or the manner of determining the same.</p> <p>The terms of the Sale and Purchase Agreement may also provide that any delay on the part of the Vendor in providing any documents (<i>eg the chargee's redemption statement and letter of undertaking</i>) or on the part of the chargee in providing any documents (<i>eg the undertaking to refund or the Discharge of Charge Documents</i>) is to be taken into account in extending the Completion Date/Completion Period.</p> <p>If this is the case, the Completion Date/Completion Period and Extended Completion Date/Extended Completion Period may have to be accordingly revised from time to time based on the extra number of days taken by the relevant party in respect of any applicable event/action.</p>			



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	Date DUE	Date DONE	Remarks								
<p>a. Completion Date/Expiry of Completion Period:</p> <p>If applicable, Completion Date/Expiry of Completion Period (1st Revision):</p> <p>If applicable, Completion Date/Expiry of Completion Period (2nd Revision):</p> <p>Further revisions, if any:</p>											
<p>b. Extended Completion Date/Expiry of Extended Completion Period:</p> <p>If applicable, Extended Completion Date/Expiry of Extended Completion Period (1st Revision):</p> <p>If applicable, Extended Completion Date/Expiry of Extended Completion Period (2nd Revision):</p> <p>Further revisions, if any:</p>											
<p>c. In the course of the transaction, you may wish to keep track of the actual events/actions which have resulted in an extension or extensions of Completion Date/Completion Period or Extended Completion Date/ Extended Completion Period:</p> <table border="1"> <thead> <tr> <th>Event:</th> <th>Number of extra days:</th> </tr> </thead> <tbody> <tr> <td>i.</td> <td></td> </tr> <tr> <td>ii.</td> <td></td> </tr> <tr> <td>iii.</td> <td></td> </tr> </tbody> </table>	Event:	Number of extra days:	i.		ii.		iii.				
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		Date DUE	Date DONE	Remarks
7.3	Check the Sale and Purchase Agreement to ascertain whether the extension of time to pay the balance of the purchase price (<i>ie Extended Completion Date/Period</i>) is automatic or a written request is required for the same. If a written request is required, note the time frame to make such written request.			
7.4	To note the party to whom the purchase price/balance purchase price should be made payable – Vendor/ Vendor’s solicitors as stakeholder or Purchaser’s solicitors as stakeholder. * (* strike out as appropriate)			
8. SETTLEMENT OF PURCHASE PRICE				
8.1	Preliminaries – Note the following:			
a.	If the property is charged, identify chargee. Name of chargee:			
b.	Ascertain if the Purchaser is obtaining a loan to finance the purchase of the property. If property is not charged and Purchaser is not obtaining a loan to complete purchase, proceed to Section 8.2 below. If property is charged and Purchaser not obtaining a loan to complete the purchase, proceed to Section 8.3 below. If property is charged and Purchaser is obtaining a loan to complete the purchase, proceed to Section 8.4 below. If property is not charged and Purchaser is obtaining a loan to complete the purchase, proceed to Section 8.4 below.			
8.2	<i>Property is not charged and Purchaser is not obtaining a loan</i> Where the property is not charged and Purchaser is not obtaining a loan to complete purchase:			
8.2.1	KIV for no less than three weeks from the due date for the payment of the balance of the purchase price to remind Purchaser of the deadline for payment of the balance of the purchase price.			





		Date DUE	Date DONE	Remarks
8.2.2	Once the balance of the purchase price is received from Purchaser, to forward payment to the Vendor/Vendor's solicitors in exchange for the original issue document of title and any other documents (including current quit rent and assessment receipts and those held in stake as noted in Section 3.7 above) required for the registration of the property into the name of the Purchaser as provided under the terms of the Sale and Purchase Agreement.			
8.2.3	Conduct title search to ensure that there are no encumbrances or impediments to registration. Present the Form 14A for registration.			
8.2.4	KIV for issuance of title in the name of the Purchaser.			
8.2.5	Attendance to the extraction of the issue document of title in the name of the Purchaser and delivery thereof to the Purchaser.			
8.3	<i>Property is charged and Purchaser is not obtaining a loan</i> Where the property is charged and Purchaser is not obtaining a loan to complete the purchase:			
8.3.1	Request from the Vendor the redemption statement cum letter of undertaking from the chargee to deliver the original issue document of title, duplicate charge, duly executed discharge of charge and any other documents required to effect a discharge of the charge (" the Discharge of Charge Documents ") and to refund the redemption sum if the discharge of charge cannot be registered for any reason. Note: The redemption statement cum letter of undertaking is to be issued in favour of the Purchaser.			
8.3.2	If the Sale and Purchase Agreement prescribes a time frame for the Vendor to provide the chargee's redemption statement, note the deadline for the same and KIV accordingly.			



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		Date DUE	Date DONE	Remarks
8.3.3	<p>Redemption statement received. If, by the terms and conditions of the Sale and Purchase Agreement, any delay from the Vendor in this regard is to be taken into account in extending the Completion Date/Completion Period, please note below the extra number of days taken by the Vendor to deliver the redemption statement cum letter of undertaking.</p> <p>Revise the Completion Date and Extended Completion Date in Section 7.2.</p> <p>Number of extra days:</p> <p>Also note whether the redemption statement has a validity period and KIV accordingly to ensure so far as is possible that the payment of the redemption sum from the balance of the purchase price is made within the validity period so as to avoid any delays arising from having to request the Vendor to obtain a fresh redemption statement.</p>			
8.3.4	<p>KIV for no less than three weeks (and bearing in mind any deadline identified for payment of the redemption sum as per the chargee's redemption statement as noted in Section 8.3.3 above from the due date for the payment of the balance of the purchase price to remind Purchaser of the deadline for payment of the balance of the purchase price.</p>			
8.3.5	<p>Once the balance of the purchase price is received from Purchaser, deal with the same as prescribed in the Sale and Purchase Agreement and obtain Discharge of Charge Documents and any other documents to be provided by the Vendor including those held in stake as noted in Section 3.7 above.</p>			
8.3.6	<p>Conduct title search to ensure that there are no encumbrances or impediments to registration. Present the Form 14A for registration.</p>			
8.3.7	<p>KIV for issuance of title in the name of the Purchaser.</p>			





		Date DUE	Date DONE	Remarks
8.3.8	Attendance to the extraction of the issue document of title in the name of the Purchaser and delivery thereof to the Purchaser.			
8.4	<p><i>Property is charged/not charged and Purchaser is obtaining a loan</i></p> <p>Where property is charged and Purchaser is obtaining a loan to complete the purchase, OR</p> <p>Where the property is not charged and Purchaser is obtaining a loan to complete the purchase:</p>			
8.4.1	Ascertain from Purchaser as to whether loan has been applied for and approved and from whom, ie Purchaser's Financier (" PF ").			
8.4.2	Upon receipt of the PF's solicitor's letter advising as to the requirements of the PF in respect of the release of the loan, peruse the same to ascertain whether clarification and/or variations/ amendments are required in respect of any of the terms. Communicate with PF's solicitors in respect of such clarification and/or variations/ amendments therein and attend to the requirements of the PF accordingly, including delivery of the duly adjudicated and stamped Form 14A and Withdrawal of Caveat (Form 19G).			
8.4.3	<p>If the loan sum is insufficient to settle the balance of the purchase price in full, request from Purchaser the difference between the balance of the purchase price and the loan sum ("the Differential Sum") and KIV for payment thereof.</p> <p>Note that the Differential Sum will have to be deposited with the Vendor at least two weeks before the Completion Date/expiry of the Completion Period to enable the PF to disburse the loan by the Completion Date/within the Completion Period.</p>			
8.4.4	Upon receipt of the Differential Sum, forward the same to the Vendor's solicitors and provide written confirmation to the PF's solicitors that this has been done.			



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		Date DUE	Date DONE	Remarks
8.4.5	Follow up with the PF's solicitors as to the progress of the disbursement of the loan sum bearing in mind the Completion Date/expiry of the Completion Period and Extended Completion Date/expiry of the Extended Completion Period.			
8.4.6	Ensure that by the Completion Date/expiry of the Completion Period or Extended Completion Date/expiry of the Extended Completion Period, the loan sum has been disbursed to the relevant party identified in the Sale and Purchase Agreement to receive the balance of the purchase price such that Purchaser has fully discharged his obligations to settle the purchase price in accordance with the terms of the Sale and Purchase Agreement.			
8.4.7	If, by the terms of the Sale and Purchase Agreement, any delay from the Vendor in providing any documents (<i>eg the delivery of redemption statement or undertaking to refund</i>) or the chargee in providing any documents (<i>eg the undertaking to refund or the Discharge of Charge Documents</i>) is to be taken into account in extending the Completion Date, take note of the extra number of days taken by the relevant party and revise the Completion Date/Completion Period and Extended Completion Date/Extended Completion Period in Section 7.2 .			
8.5	Late Payment Interest If settlement of the balance of the purchase price was on the Extended Completion Date, calculate the late payment interest payable and inform Purchaser to pay the same accordingly. Once payment received, forward to Vendor/Vendor's solicitors, as the case may be.			
9. TAKING POSSESSION				
9.1	Ascertain from the Sale and Purchase Agreement the time frame for the Vendor to deliver possession of the property to the Purchaser. Note the deadline.			



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		Date DUE	Date DONE	Remarks
9.2	<p>Ascertain from the Sale and Purchase Agreement whether the Vendor is to deliver vacant possession or possession of the property subject to an existing tenancy or “as is where is”.</p> <p>You may make notes on Vendor’s obligations in relation to the delivery of possession here:</p>			
9.3	Ascertain any mechanics prescribed in the Sale and Purchase Agreement as regards the delivery of possession.			
9.4	<p>Upon the balance of the purchase price being settled in full and any other payments required to be made prior to the Vendor delivering vacant possession (<i>eg. late payment interest or outgoings apportioned to the Purchaser</i>), attend to the delivery of possession in accordance with the relevant terms of the Sale and Purchase Agreement as ascertained above.</p> <p>Note: The Sale and Purchase Agreement may provide that the Purchaser has to settle outgoings apportioned to him prior to receiving possession of the Property. If that is the case, ensure the Purchaser settles the same accordingly prior to delivery of possession.</p>			
9.5	If the Purchaser is to take the property subject to a tenancy, ensure that all deposits, which may have been paid by the tenant to the Vendor, are transferred to the Purchaser and the tenancy duly assigned and/or transferred to the Purchaser.			
10. APPORTIONMENT OF OUTGOINGS				
10.1	Once Vendor informs of the outgoings apportioned to Purchaser, relay the amount payable to Purchaser and request settlement of the same by Purchaser.			
10.2	Obtain from the Vendor all current receipts relating to electricity, telephone, water, sewerage and any other outgoings for the property.			





		Date DUE	Date DONE	Remarks
11. TERMINATION				
11.1	The Sale and Purchase Agreement may in some instances not be completed but instead be terminated. Termination could be occasioned by non-fulfilment of conditions precedent, breach by one party for which the other party elects to terminate the Agreement, non-registrability of the Form 14A or by mutual consent of the parties.			
11.2	Where the Sale and Purchase Agreement terminates, ascertain the relevant provision under the Sale and Purchase Agreement pursuant to which termination has occurred and the procedures to be attended to as a consequence of such termination and the time frame for attendance to such procedures. The termination procedures will commonly involve any one or more of the following:			
a.	Refund of monies.			
b.	Forfeiture of the deposit (if termination on account of breach by the Purchaser) or payment of liquidated ascertained damages (if termination on account of breach by the Vendor).			
c.	Return of documents.			
d.	Removal of any private caveats.			
e.	Re-delivery of possession, if already delivered.			
12. REAL PROPERTY GAINS TAX				
12.1	To attend to the preparation and filing of the relevant returns for the Purchaser (Form CKHT 2A) in respect of the acquisition of the property to the Director General of Inland Revenue Board within 60 days of the date of the Sale and Purchase Agreement or as otherwise prescribed in the Sale and Purchase Agreement.			
12.2	If applicable, to retain from the Purchase Price a sum equivalent to 2% thereof and remit the same to the Director General of Inland Revenue in accordance with section 21B of the Real Property Gains Tax Act 1976. Obtain the Vendor's and Purchaser's respective income tax reference numbers and branch of the Inland Revenue Department at which the respective income tax files are maintained for the purposes of attending to the lodgement of the aforesaid returns and remittance.			





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