



Abandoned Housing Projects: Legal Challenges, Governance Gaps and the Path to Sustainable Recovery

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Abandoned Housing Projects in Malaysia



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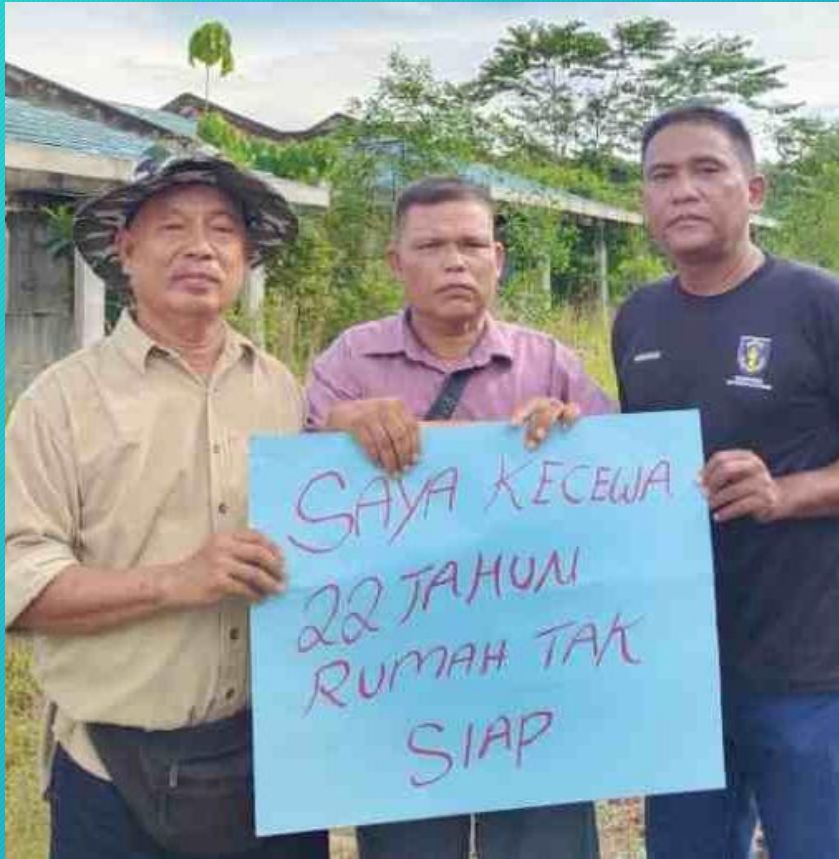
Abandoned Housing Projects in Malaysia

Reasons and Causes

- Shortage of funds on the part of the developers
- **No mandatory build-then-sell (BTS) system of housing delivery**
- **No mandatory housing development insurance**
- **No law governing the rehabilitation of abandoned housing projects**
- Enforcement issues
- Profit maximisation, unreasonable investors' demands, and pressure from the Basel Accord.



The Consequences



- The purchasers cannot get the duly completed houses with CCC and titles.
- The abandoned housing projects will be stalled forever if no viable rehabilitation is found
- The purchasers have to suffer losses, grievances and suffering; for example, they need to pay their banks until settlement
- No compensation or damages are given by the defaulting developers
- Legal actions may not be feasible. Developers run away, insolvent developers, too many complications

The Consequences

- Rehabilitation may not be possible
 - issues of inadequate funding, too many technical issues involving the land office, the planning authority, the building authority, the housing authority, insolvency issues & lender chargee
- Stalled building creates an ugly and unattractive urban landscape, attracting criminal activities
- Problems for demolition subject to the chargees' consent, proprietors' consent & no investors interested.



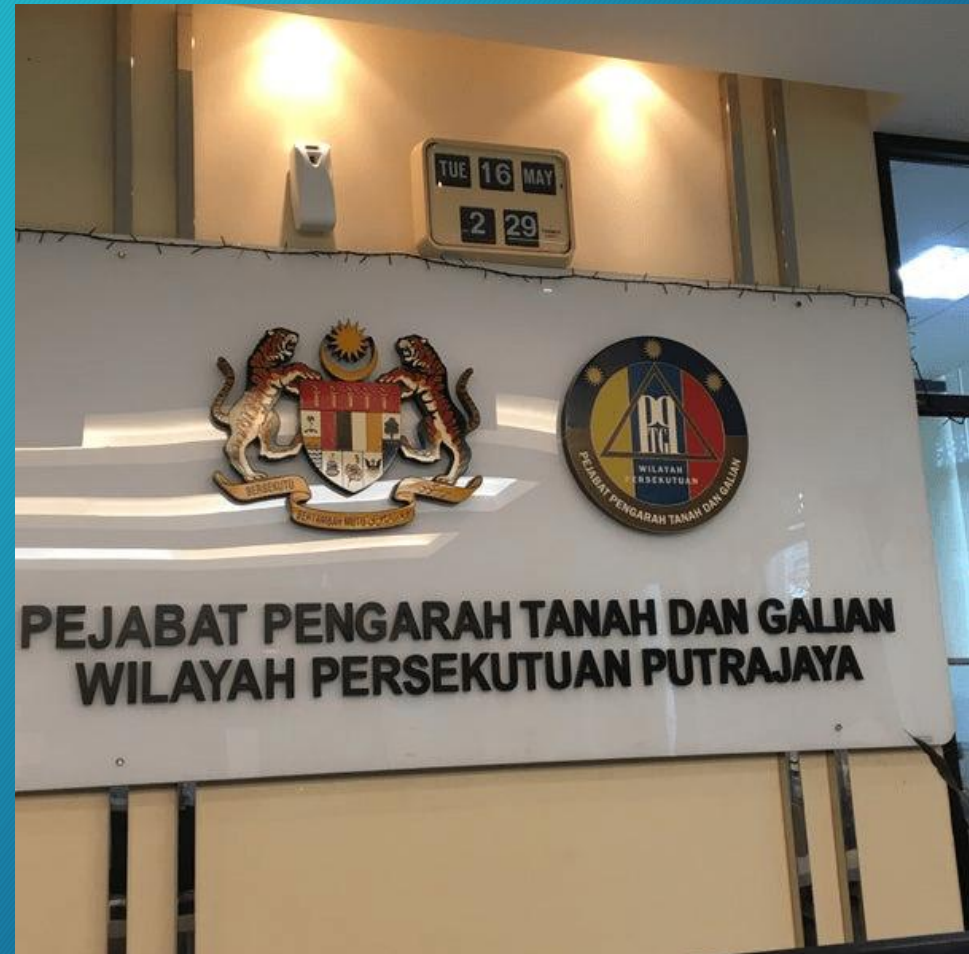
Rehabilitation of Abandoned Housing Projects



- Many challenges
- Funding issues
- No interested party to revive
- No cooperation from purchasers
- Issues with the land office, local planning authority, technical agencies, banks, creditors, and insolvency administration
- Misuse, abuse, misconduct, failure of the rehabilitating party to duly complete the projects
- No law governing rehabilitation legal provisions to protect the rights and interests of purchasers
- Purchasers to waive any demands before the rehabilitating party agrees to rehabilitate
- Legal actions, encumbrances, caveats, injunctions, etc
- Issue of CF and CCC, partial/temporary CF and CCC.

Issues in various stages & laws

- ✓ Land and Planning Laws
- ✓ Building and Housing Development Laws
- ✓ Corporate Insolvency and Islamic Home Finance Law



Issues in Land Law

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- **Section 108 NLC** – superiority of the land authority over planning authority & technical agencies

Issues in Planning Law



- **Non-coordination between the state and federal authorities**
- Superiority of PA over technical agencies
- Superiority of the state authority over PA
- **Inadequate Development Plan**
- Inadequate advice and comment from the technical agencies. No big data, no data analytics, no AI.

Issues in Building Law



- Immunity of the state authority and LA under section 95(2) SDBA
- No mandatory legal provisions that require the LA to carry out reasonable supervision, verification and inspection of the building works

Issues in Housing Development Law

- Lack of mandatory requirement for housing development insurance by developers
- No mandatory build, then sell (“BTS”) system for housing delivery.
- No specific legal provisions governing the rehabilitation of abandoned housing projects.



Issues in Corporate Insolvency Law

- Creditor priority - creditor-centric - purchasers can be neglected.
- Shortage of funds (balance HDA & priority of claims)



Islamic Home Finance

- Pending completion of housing units/incomplete
- Completed housing units
- **Gharar**
- **Imbalance between the interests of the bank and the borrower**
- **Unfair contract terms**
- Unconstitutional, against human rights & Islamic Law. Federal Constitution?



New Development in Malaysia - Digital system by KPKT

- **eSPA** — the contractual/data-entry gate: captures purchaser and contractual information
- **HDA** — the financial-control layer: controls and traces project money
- **Housing Integrated Management System (HIMS)** - the central monitoring and early-warning engine: physical/financial indicators deteriorate → HIMS detects divergence → regulator intervenes before abandonment: combines financial + physical + regulatory indicators
- **TEDUH** — the purchaser-facing transparency layer: Is the developer licensed? Is the project properly registered? What is its progress? Is it already classified as problematic? Communicates relevant status to purchasers/public

New Development in Malaysia

- **Proposed RPDA** — Real Property Development Act / Akta Pemajuan Harta Tanah: The proposed law is expected to modernise the regulatory framework, **strengthen purchaser protection**, extend regulation beyond conventional residential developments, and accommodate newer development and tenure models
- **Proposed OTP** — Option to Purchase: project launch → OTP stage → test real purchaser demand → insufficient demand identified early → project can be reconsidered before major financial exposure → deposits returned according to the statutory mechanism
- **DRN 2026-2035** — Dasar Perumahan Negara: to establish **big data in 2027 - a big-data housing platform integrating information from KPKT, state governments, local authorities and locality-level sources**. The aim is to improve feasibility studies and match housing types, locations, prices, demand, and affordability.

Conclusion

- ✓ **Mandatory “Full Build then Sell” (BTS)**
- ✓ Establish a consortium of housing developers with the government as the major shareholder, applying BTS akin to the **Housing and Development Board of Singapore (HDB)**
- ✓ If using Sell then Build (STB), it must impose **Housing Development Insurance (HDI) + a special legal regime governing the rehabilitation of abandoned housing projects (SLRGR)**
- ✓ Full enforcement by KPKT - **opening up branches in all districts where housing development is carried out - cross-check**, verification & inspection
- ✓ **Disaster Risk Management Plan (DRMP)** should be made mandatory in development plans through reforms to land, planning, building, housing, and Islamic/conventional finance laws
- ✓ **Islamic home finance - must avoid gharar, fair contract terms and be responsible - only use BTS or, if STP, then HDI and the special law governing rehabilitation of abandoned housing projects must be provided**





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