

Processing stage and registration stage

News

1. Pre-Registration Stage:

Contract of Sale

There are 2 types of sale and purchase of property, namely:

a) Purchase from property developers (Primary Sale)

- The sale and purchase of property (housing accommodation) which is under construction from a property developer is governed by the Housing Development (Control and Licensing) Act, 1966; or

The sale and purchase of completed property from a property developer.

b) Purchase of completed property direct from owner of the property (Sub-Sale)

- In a sub-sale, the purchaser buys directly from existing owner by way of private contract. In this type of property transaction, the parties are free to dictate their respective terms and conditions.

Once the Sale and Purchase Agreement (SPA) is signed, a copy of the SPA, the Memorandum of Transfer which is Form 14A under the National Land Code, 1965 (for property with individual title); or Deed of Assignment (DOA) (if it's a property without individual title) will be submitted to the Stamp Office/Revenue Service Centre (RSC) for adjudication. Adjudication is the process of determining the amount of stamp duty ("Ad Valorem") payable for transfer of property.

2. Processing Stage – Adjudication of Form 14 A / Deed of Assignment (DOA)

- Valuation by JPPH — Valuation and Property Services Department/Jabatan Penilaian dan Perkhidmatan Harta — is part of the stamping process by Stamp Office/RSC for cases where valuation is required.

- Upon receipt of the application for valuation from the Stamp Office/RSC, JPPH will process the application and a valuation report will be prepared and subsequently sent back to the Stamp Office/RSC.

- The time taken by JPPH to complete a valuation request is between 1 and 8 working days depending on the type of property. For standard property, it takes only one working day. A longer period maybe required if the property is a complex property, for example, shopping complex, multi-storey office building or industrial complex.

- The Stamp Office/RSC will issue a Notice of Assessment either manually or online through "STPH" — Sistem Taksiran Pindah Milik Harta Tanah (also known as "STAMPS" — Stamp Assessment and Payment System). The Notice of Assessment will indicate the amount of stamp duty payable for the transfer of property. The rate of chargeable stamp duty will depend on the value of the property as prescribed by the Stamp Act, 1949. Payment must be made to the Collector of Stamp Duty through the Stamp Office/RSC within 30 days from the date of the Notice of Assessment. A penalty will be imposed for payment exceeding 30 days from the date

of the Notice of Assessment.

3. Registration Stage

a) Registration of Transfer of the Property (for property with individual title)

For registration of property, submission of the duly stamped Form 14A accompanied by the required documents, original Issue Document of Title (IDT), payment of prescribed registration fee and copies of Quit Rent and Assessment receipts. The Land Administrator will endorse the name of the buyer in the Register Document of Title (RDT). The RDT is kept in the strong room at the Land Office /Registry itself. The Land Office/Registry will subsequently issue a new IDT to the buyer within one working day from the date of submission. All Land Offices /Registries in Peninsular Malaysia are committed to issue the new IDT within the specified time frame.

b) Assignment of Property (for property without individual title)

- No registration is required for properties without individual titles simply because the Land Office /Registry does not have records of individual properties until the individual titles are issued. Properties without individual titles can be sold or change hands by means of a document called the Deed of Assignment (DOA).

- A DOA is a legal instrument used as a means of conveyance of rights to property whereby the seller (“Assignor”) assigns his rights and title to the property to the buyer (“Assignee”).

- By the DOA, the seller’s rights, interest and the title to the property as enshrined in the SPA, usually called the principal SPA (between the first purchaser, the developer and/or proprietor) is assigned to the Assignor.

- Once the DOA is duly executed and stamped, the Assignee acquires legal rights and title to the property assigned. The only difference is that it is not registered at the Land Office/Registry.

- The DOA has to be adjudicated in a similar manner as for property with title, but instead of Form 14A, the original copy of the DOA is submitted together with a form specified under the Stamps Act, 1949 - Form PDS 15.

- The initiatives taken have resulted in the following continuous improvements across all government agencies involved. Further to the improvements made, Stamp Office/RSC has embarked on enhancing STAMPS to further improve the stamping process of instruments related to transfer of property, including e-Stamping, an on-line stamping system involving agent and the Stamp Office/RSC.

- The Land Office /Registry is moving towards simplified and standard forms for land-related transactions to be adopted by all states in Malaysia. The revision to the National Land Code this year will seek to improve and implement uniformed administrative procedures.

- Currently, only three states — Penang, Malacca and Negri Sembilan — are using e-Tanah.

Source : Business Times

Date Published : 14 March 2011