

A STUDY ON CONTRACTORS' AWARENESS AND WILLINGNESS TO ADOPT THE
REMEDY UNDER SECTION 217 OF COMPANIES ACT 1965

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ABSTRACT

There are many complaints made by contractors about severe non-payment problems in Malaysian construction industry. A preliminary survey showed that 75% of contractors have experienced non-payment problem. To resolve this problem, contractors may exercise available remedies as stipulated under the contract or take court action. Section 217 of Companies Act 1965 is one of the options that contractors may consider as a last resort remedy. However, the preliminary survey showed that 57% of respondents were not aware on the remedy. Hence, the objectives of this research are to identify the contractors' level of awareness about the remedy under Section 217 of Companies Act 1965 and their level of willingness to use the remedy in the event of non-payment by employers and also the reasons for willingness to use this remedy. Questionnaires were used as the instrument for data collection and distributed to respondents consisting of contractors in Johor who are registered with CIDB (*Construction Industry Development Board*) in grade G7. The data were then analyzed by using descriptive statistics method and correlation inferential procedure. The findings of the study showed that the level of awareness of contractors towards this remedy is low with the average mean 1.85 out of 3.00 and they are not willing to use the remedy by the average mean 1.73 out of 5.00. Notwithstanding, some contractors are willing to use the remedy if the amount is substantial and only as a last resort. Hopefully the outcome of this research will serve as a guideline to contractors in considering this remedy as the last resort if it is applicable when encountering problem of non-payment from their employers.

ABSTRAK

Kontraktor Malaysia selalu menghadapi masalah ketidakbayaran dalam industri pembinaan. Kajian awalan menunjukkan bahawa 75% kontraktor menghadapi masalah ini. Untuk menyelesaikan masalah tersebut, kontraktor boleh mengambil tindakan sebagaimana yang terkandung dalam kontrak atau mengambil tindakan mahkamah. Seksyen 217, Akta Syarikat 1965 merupakan salah satu tindakan yang boleh diambil. Namun begitu, kontraktor hanya boleh mempertimbangkan tindakan ini sebagai jalan terakhir. Bagaimanapun, kajian awalan menunjukkan 57% kontraktor tidak sedar akan kewujudan jalan penyelesaian terakhir ini. Oleh itu, objektif penyelidikan ini bertujuan untuk mengenal pasti tahap kesedaran kontraktor berkenaan tindakan tersebut dan tahap kesanggupan mereka untuk mengambil tindakan ini seandainya berlaku ketidakbayaran daripada pihak majikan serta mengenal pasti sebab-sebab kesanggupan mengambil tindakan tersebut. Borang soal selidik digunakan untuk mengutip data dan diagihkan kepada responden yang terdiri daripada kontraktor bergred G7 di Johor yang berdaftar dengan CIDB (*Lembaga Pembangunan Industri Pembinaan*). Data yang diperoleh kemudiannya dianalisis menggunakan kaedah statistik deskriptif dan perbandingan korelasi. Hasil kajian menunjukkan bahawa tahap kesedaran kontraktor terhadap kewujudan tindakan ini adalah rendah dengan nilai purata min 1.85 daripada 3.00 dan mereka juga tidak sanggup untuk mengambil tindakan ini dengan nilai purata min 1.73 daripada 5.00. Namun demikian, sebilangan kontraktor sanggup mengambil tindakan ini dengan sebab bahawa nilai tuntutan adalah besar dan sebagai jalan terakhir. Hasil kajian ini diharap dapat dijadikan sebagai panduan kepada kontraktor dalam mempertimbangkan tindakan ini sebagai jalan terakhir jika bersesuaian dalam menghadapi masalah ketidakbayaran daripada pihak majikan mereka.