

Title: Problems Associated With Nominated Subcontractors In Malaysia Construction Industry

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Abstract:

It is common for about 80 percent to 90 percent of the work in building construction to be performed by subcontractors. In the second half of the last century, a procedure has been developed in the construction industry whereby the employer or rather his architect or engineer selected the subcontractor. This is termed the 'nomination' of a subcontractor. Although a nominated subcontractor is nominated by the employer, but the parties in the main contract are main contractor and the employer and the parties in subcontract are the main contractor and the nominated subcontractor. According to Sundra Rajoo (1999), the use of system of nomination has caused many difficulties. Hence, the objective of this study is to identify the common problems associated with nominated subcontractors in Malaysian construction industry. Methodology used to conduct this study is through court cases analysis. Confidence interval and margin of error is used to value the unknown parameter. The results show that the major problem is payment. Problems in payment included insolvency of main contractor, non-payment by employer, variation made in payment term orally, the latest payment superceded the previous payment certificates, and payment is disputed by the main contractor or the employer. Besides that, other problems include retention sum, incorporation by reference, determination, works and materials, and delay. The parties involved in those disputes are mainly between main contractors and nominated subcontractor or between main contractor and employer. The decision of each case is discussed in order to determine the outcome of those problems.