

TERMINATION OF ARCHITECT'S ENGAGEMENT

UMI KALSUM BTE ZOLKAFLI @ ZULKIFLI

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ABSTRAK

Pengeluaran Perakuan Siap Dan Pematuhan (CCC) oleh para professional terutamanya Arkitek Professional telah menyebabkan peranan Arkitek Professional menjadi lebih penting. Professional Arkitek dikehendaki untuk menjadi 'Prinsipal Submitting Person' kepada Pihak Berkuasa Tempatan. Setelah semua pihak berpuashati barulah Perakuan Siap Dan Pematuhan dikeluarkan. Oleh yang demikian penamatan perkhidmatan Arkitek Professional akan menyebabkan berbagai masalah kepada kontrak pembinaan. Masalah yang mungkin timbul adalah penahanan surat perlepasan oleh Professional Arkitek dimana ianya boleh menyebabkan klien tidak dapat untuk melantik Professional Arkitek yang lain untuk meneruskan projek. Adakah seorang Professional Arkitek dibenarkan untuk menahan surat perlepasan? Oleh yang demikian matlamat kajian ini adalah untuk menentukan samada seorang Professional Arkitek boleh menahan surat pelepasan atau tidak. Skop kajian ini terbatas kepada kontrak perkhidmatan diantara Arkitek Professional dan juga Klien di Malaysia terutamanya. Metodologi kajian adalah dengan mengambil keputusan mahkamah berkaitan dengan isu surat perlepasan, temuduga terhadap Arkitek Professional, Pemaju (samada swasta atau kerajaan) serta Peguam dan rujukan kepada Akta Arkitek 1967 (Act 117) and 'Architect Rules 1996'. Selepas menganalisa maklumat, penemuan menunjukkan bahawa Arkitek Professional tidak boleh menahan Surat Pelepasan kepada Klien kerana penahanan tersebut adalah merupakan tindakan untuk mengugut Klien. Kesimpulan dari kajian ini ialah Klien mestilah melaksanakan tanggungjawabnya seperti yang termaktub didalam Perjanjian Perkhidmatan Arkitek Professional terutamanya dari segi pembayaran yuran ikhtisas kepada Arkitek Professional dan sekiranya terdapat percanggahan ianya mestilah dirujuk kepada Penimbang Tara, 'Mediation' ataupun Mahkamah.

ABSTRACT

Issuance of Certificate Completion and Compliance (CCC) by Professional Architect has made the role of Professional Architect become more important. Professional Architect is required to become Principal Submitting Person to the Local Authority. Certificate of Completion and Compliance will be issued after getting clearance from all the respective department of Local Authority. Therefore termination of Architect's Engagement will create a lot of problem to the construction contract. Problem that may arise is withholding of Letter of Release by the Professional Architect whereby the client may have problem in appointing a new Professional Architect to proceed with the works. Is Professional Architect allowed to withholding the Letter of Release? Therefore the aim of this research is to ensure whether a Professional Architect can with holding the Letter of Release or not. The research scope will be limited to the Contract of Services between the Professional Architect and the Client in Malaysia. The research methodology is by analyzing cases regarding issue on Letter of Release, Interview with Professional Architect, Developer and Lawyers and the most important is by referring to the Architect Act 1967 (Act 117) & Architect Rules 1996. After analyzing the information, it shows that Professional Architect cannot with holding Letter of Release because that the architect can hold the client for ransom. From the research it can be concluded that Client have to comply with their obligation under the contract between the Professional Architect especially when matter on payment of consultant fees and if dispute arise it must be referred to Arbitration, Mediation or Court.