ISSUES IN IMPLEMENTING ELECTRONIC TENDERING IN INDONESIAN'S CONSTRUCTION INDUSTRY

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PETITION FOR WINDING UP
UNDER SECTION 218 OF COMPANIES ACT 1965

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A project report submitted in partial fulfilment of the requirements for the award of the degree of Master of Science (Construction Contract Management)

Faculty of Built Environment
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SEPTEMBER 2012
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To my beloved mother, father, brother and sister.
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ABSTRACT

In resolving the problem of non-payment, contractor may take court action as provided in Section 218 of Companies Act 1965, provided that if an employer does not pay the sum of exceeding RM 500.00 which is certified within three weeks after it receives the contractor's claim, the unpaid contractor may petition for the employer's company to be wound up. An examination to related law cases showed that the courts were very strict in granting the petition, which caused most of the contractors lost in their winding up petitions. By observing the law cases, it seemed that compliance with requirements those are set out in Section 218 of Companies Act 1965 is not sufficient for High Court in completely making a company to be wound up in final. Most of judges also tended to put extra requirements to the contractors in issuing a winding up petition. Therefore, this research was done to identify the strategies which are required to be prepared by contractors to wind up their employers. In this research, law cases were studied to understand in detail on the reasons which had been given by the learned judges in accepting and rejecting the contractors' petition of winding up against their employers. The research result showed that a contractor will be able to wind up an employer when the employer is insolvent, the employer is not successful to establish a bona fide dispute between it and the contractor; the remedy of winding up is applied as the last resort; and the objective to wind up a company is to settle the debts by selling its assets. This research finding hopefully may enlighten or at least give contractors a guide in preparing their strategies before petitioning for winding up against their employers.
ABSTRAK