APARTMENT OWNERSHIP LAW



AT A GLANCE

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BACKGROUND

- Vertical Living
- Is it attractive
- Difficulty in horizontal living in Urban areas
- Scarcity of lands & land prices

RELATED LEGISLATION

a) The Apartment Ownership Law No.11 of 1973
b) Apartment Ownership (Amendment) Act No.45 of 1982,
c) Apartment Ownership (Special Provisions) Act No.4 of 1999,
d) Apartment Ownership (Special Provisions) Act 27 of 2002 and
e) Apartment Ownership (Amendment) Act No.39 of 2003.
And

Rules made by P.A.D. Kenamon Hon. Minister of Housing & Building and published in Gazette No.63/6, dated 12th June 1973 Gazette No. 81 dated 12th October 1973 Gazette No.2026/25 dated 05th July 2017

WHAT IS A CONDOMINIUM

"Condominium is a building or a structure, erected on alienated land held as one land parcel which has two or more storey which consists of parcels, which can be owned and or used separately by individuals and the remaining portions of the property being owned by the owners of individual parcels in common".

DEFINITIONS

- **The Definition Given in Act No.39 of 2003**
- **Sec 3 of Act No.39 of 2003** refers to three types of Condominium Property.
- **Any building erected** on alienated land held as ***one land parcel*** and capable of being sub divided into parcels referred to as **Condominium Property**
- **Any building Proposed to be** erected on alienated land held as ***one land parcel*** and capable of being sub divided into parcels referred to as **Provisional Condominium Property**
- **Any building partly erected** on alienated land held as ***one land parcel*** or which there are more than one completed condominium parcels fit for human habitation referred to as **Semi Condominium Property**

- **Unit owners** will have free hold to their individual parcels and the common elements will be jointly owned. Each individual parcel owner owns a percentage of the aggregate share of common elements. There is an aggregate share value to all the common elements and it is allotted to individual parcel-owners proportionate to the share value.

WHAT IS A CONDOMINIUM PARCEL

- **A Condominium parcel means**

  "as defined space which is shown as an independent parcel on a Condominium Plan which is defined for independent use consisting of one or more rooms with other requirements such as kitchen, toilet etc. whether occupying the entirety or part of one or more story's in a building of one or more than one storey and which is shown as a separate unit on a condominium Plan and includes a unit or units specified as an accessory unit or units on any such plan provided that such defined space has a direct exit to a road or a common area leading to a road and access cannot be had through to any enclosed space of like description"

Act No.39 of 2003 provide provisions for registration of a Condominium Plan, a Provisional Condominium Plan and a Semi Condominium Plan

- Definitions as provided in the Act.
- **WHAT IS A CONDOMINIUM PLAN**

  It is a Plan of a Condominium Property which

  Is described in the title or heading thereto as Condominium Plan

  Indicates the whole or any part of the land parcel comprised therein a completed building as being divided into two or more storeys and is divided into two or more condominium parcels or any building having only one storey also be capable of being sub divided into parcels and

  Contains particulars set out in section 5

WHAT IS A SEMI CONDOMINIUM PLAN

- Is described in the title or heading thereto as Semi Condominium Plan
- Shows the whole or any part of the land parcel comprised therein a partly completed building having one storey capable of being sub divided into two or more storeys or partly completed building having one storey capable sub divided into parcels
- Contains the particulars set out in Section 5B
- Has more than one completed condominium parcels and such Condominium Parcels are fit for human habitation

WHAT IS A PROVISIONAL CONDOMINIUM PLAN

- Provisional Condominium Plan means a Plan of Provisional Condominium Property which
- Is described in the title or heading thereto as Provisional Condominium Plan
- Indicate the whole or part of the land parcel and the building proposed to be erected and shall be capable of being subdivided into parcels
- Contains particulars set out in section 5A

REGISTRATION OF CONDOMINIUM PLAN

- Section 3 of the 2003 Act provide provisions for the registration of any Condominium Plan, Semi Condominium Plan or Provisional Condominium Plan
- The owner of any land parcel on which there is a completed building capable of being subdivided under Sec 2 and which is certified by the General Manager CMA to be fit for occupation or use shall make an application in prescribed form within the specified period with the prescribed fee to the registrar for the registration of the condominium plan shall accompany such application if at any time he has sold or in agreement to sell:
- Within 18 months from the date of such sale or an agreement to sell or three months from the date of the completion of such building whichever is earlier

- With in six months from the date of completion of such building if the sale or agreement to sell or any parcel of the building of which the first of such sale or agreement to sell took place, after the date of completion of such building.

EXTENSION OF TIME PERIOD

- If there is a necessity for an extension the owner will have to make an application to the General Manager CMA for an extension of time.
- However there is a penalty clause for the owners who contravenes the provisions.
- Sections 3A,3B & 3C provide provisions with regard to registration of Provisional, Semi & Condominium Plans.

AMENDMENTS CONDOMINIUM PLAN

- After the registration of the Plan and the Condominium declaration if developer or the Owner or any other interested Party cannot amend the Condominium Plan arbitrarily without following the procedure laid down in Section 8 in 2003 Act.
- Many developers after approval being obtain for provisional or semi Condominium plan make changes to the original drawings. If they so desire they have to submit required documents to the registrar submitting relevant documents which requires the consent of the **Mortgagee too.**
- Again sections 8A & 8B provide the requirements for registration of amendments to Provisional or Semi Condominium plans.

EFFECTS OF REGISTRATION OF CONDOMINIUM PLAN OR SEMI CONDOMINIUM PLAN (SEC 13)

- This is an area where if the **condominium or semi condominium** plan is registered and the property is deemed to be divided into units with separate identity, the common elements therein shall be held by the owners of all the condominium parcels as **tenants in common proportional to their to respective share parcels for the same term they held the parcel.**

EFFECTS OF REGISTRATION OF PROVISIONAL CONDOMINIUM PLAN (SEC 14) (9A OF PRINCIPAL ENACTMENT)

- Upon registration of provisional Condominium Plan each provisional condominium parcel depicted there in together with the provisional common elements thereto shall be deemed to be absolutely owned by the person described as the owner in the plan.
- **It is to be noted any mortgage executed prior to registration of provisional condominium plan or after the registration of the provisional condominium plan and Agreement of sales for individual Provisional Condominium parcels there is no right to execute any instrument without the consent of the mortgagee.**
- **As per Section 9(a) the owner is debarred from the sale, lease ,rent or disposing a Provisional parcel or the land where the building to be erected**

SHARES IN COMMON ELEMENTS & ACCESSORY PARCELS

- No share in the common element of a registered condominium property or semi condominium property shall be disposed or otherwise dealt with except as appurtenant to a condominium parcel of such property. No accessory parcel or any share or estate or interest there in shall be deal with independently of the condominium parcel to which such accessory parcel has been made appurtenant as shown on the condominium Plan or on the Semi Condominium Plan

IS THE RE DIVISION OR AMALGAMATION OF CONDOMINIUM PARCEL IS POSSIBLE?

Section 18 of 2003 Act provide provision for owner or owners of condominium property or semi condominium Property for registration of re division or amalgamation of registered condominium.

DISSOLUTION OF A CONDOMINIUM & EFFECTS

- When the Building is damaged
- Destroyed

WHEN THE BUILDING IS DAMAGED

- Section 20P sub sec. (a) is now not applicable with regard to the procedure when **sub divided building is damaged.**
- 2003 amendment had substituted following section 39(3) of Act No.39 of 2003.
- "9(a) notify the condominium management authority and the insurer immediately and reinstate the damage portion of the sub divided building and provide a scheme for the continued use of the sub divided building in whole or in part subject to the supervision of the Condominium management Authority"

DESTROYED

- Section 20Q as amended by Section 40 in Act No.39 A sub divided building shown in a Condominium Plan or **Semi Condominium Plan** shall be deemed to be destroyed when the owners of all the units by unanimous resolution resolve that the sub divided building be destroyed.
- Upon destruction of the sub divided building the management Corporation shall forth with lodge with the registrar and the **Condominium Management Authority** a notice of its destruction

COMMON ELEMENT

- **A Common Element** relating to a Condominium property means so much of the condominium property which is not comprises in any unit therein and includes:
- (follow the details)

Role of the Condominium Management Authority on management corporations:

- **' Immediately after the establishment of the management corporation by virtue of operation of this law The Condominium management Authority shall subject to the provisions in the First schedule to the said Law, summon not later than three months from the date of such establishment, the first annual general meeting of the management corporation and elect the first Council, and such council shall cease to hold office at the next annual general meeting. Upon the election of the First Council subject to the provisions in the First schedule the council shall perform the duties and exercise the powers of the management corporation and conduct the business of the management corporation on its behalf"**

THANK YOU

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