

2 January 2009

The Land Registry  
28/F Queensway Government Offices  
66 Queensway Hong Kong  
By E-mail: [kfpang@landreg.gov.hk](mailto:kfpang@landreg.gov.hk)

Dear Sir,

**Comments and Responses on Consultation Paper on the Proposed Amendments to the Land Titles Ordinance - Rectification and Indemnity Provisions**

I would like to thank you the Registry to allow the public an opportunity to express their views on the proposed amendments to the Land Titles Ordinance that was published on the Land Registry website on 1 January 2009. Below are my comments on the consultation paper.

Paragraph 26 of the Consultation Paper

One of the key issues in paragraph 26(b)(i) of the consultation paper is in the context of volunteers is whether a volunteer should receive the benefits of deferred indefeasibility. The first bona fide purchaser can defeat the claim of defrauded owner by subsequently transferring ownership to a volunteer being the second bona fide purchaser. Alternatively, purchase the land with a "dummy" first purchaser and subsequently transfer to him or herself, being the second bona fide purchaser, to defeat the claim of the defrauded owner.

What kind of fraud

Mandatory rectification rule should not be available for fraudulent misrepresentation. For instance, the owner signed transfer which induced by fraudulent misrepresentation. The responsibilities of avoiding fraudulent misrepresentation should lie with the defrauded owner and not with the bona fide purchaser. It is just and reasonable for the bona fide purchaser who made proper inquiry that the vendor is the true registered proprietor.

Limitation of Right of Indemnity

The purpose of the indemnity is to protect persons who are defrauded in their registered land. The limitation of right of indemnity should not be too strict. The right of indemnity should covers situation like the act of a third party, the fraudster, in forging a signature which then led to registration by an innocent mortgagee. In this circumstance, neither the registered owner nor the innocent mortgagee will satisfy the requirements of "loss of ownership" to apply for indemnity because the fraudster was never the registered owner of the land and the two innocent parties never lost their ownership or title. The term "which affects ownership" of s 84(1) should be replaced with "deprivation of any estate or interest in the land".

Your Sincerely,

Sai Lee