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عيسى السليطي للمحاماة
ESSA AL SULAITI LAW FIRM

MODERN LAW

REAL ESTATE
DEVELOPMENT
LAW



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INTRODUCTION

The construction and building sector in Qatar are witnessing continuous growth and development, thanks to the developmental and economic plans included in Qatar Vision 2030 and spending on infrastructure and development projects. Real estate investments and projects represent an important economic sector for Qatar. The real estate market indicators for January 2023 reveal that the sector continues to grow strongly, both commercially and investment-wise, due to the active trading in the real estate sector, driven by new laws and decisions related to real estate brokerage, registration, ownership, and usufruct, as well as economic laws that attract both local and foreign capital.

Recognizing the importance of ongoing development in the real estate sector for achieving Vision 2030, the Qatari legislator introduced Law No. (6) of 2014 concerning the regulation of real estate development and its subsequent amendments. These amendments, approved by the Shura Council in its session on February 6, 2023, reflect the continuous evolution of the real estate sector and the Qatari economy. The law is comprised of forty articles, divided into six chapters.

WHAT IS REAL ESTATE DEVELOPMENT

Real estate development is a commercial activity that emerged due to advancements in the construction and building sectors and the large-scale projects that require high-level planning and precision. Real estate development includes the acquisition of vacant lands, the construction of new projects on it, partial or complete renovation of old properties and renovating existing buildings. Afterward, it involves the process of marketing real estate and maximizing the benefits from these properties. The importance of real estate development lies in conceiving the project idea, conducting feasibility studies, identifying funding sources, and studying marketing to ensure the project's success.

As stated in Article (1) of Law No. (6/2014) regulating real estate development:

Real estate development is defined as "The works carried out by the developer to dispose of the real estate units, including the division of parcels and facilities, as well as the infrastructure development, design, and

construction, advertisements and marketing, as well as the registration of the aforementioned units".

DEVELOPER AND LICENSING REQUIREMENTS

A developer is a legal person authorized to practice real estate development works, as per Article (1) of the Law regulating real estate development. It is prohibited to engage in real estate development activities without obtaining a license from the Department, the designated department of the Ministry of Economy and Commerce. To practice real estate development, specific conditions are set by Article (3) of the Law, which distinguishes between granting a license to a physical person or a legal person. The article also specifies exemptions from the provisions of Law No. (13/2000) on the Regulation of the Foreign Capital Investment in the Economic Activity, which set certain conditions for non-Qataris to engage in commercial activities.



(PHYSICAL PERSON – LEGAL PERSON – NON- QATARI COMPANIES)

Physical Person

For a physical person, the law stipulates that a non-Qatari individual may not engage in real estate development activities and that they shall not be convicted of a crime involving moral turpitude or dishonesty or adjudication of bankruptcy, unless he has recovered his civil rights. The law also requires the individual to have prior experience, of minimum three years, in the management of construction and building projects, prior to the submission of his application and to be registered in the Commercial Register.

The article text is as follows:

1. The person shall be Qatari.
2. The person shall not be convicted of a crime involving moral turpitude or dishonesty or adjudication of bankruptcy unless he has recovered his civil rights.
3. The person shall have a past experience, of a minimum of three years, in the management of construction and building projects, prior to the submission of his application.
4. The person shall be registered at the Commercial Register.

Legal Person

For a legal person, the law also stipulates that if the license applicant is a company (a legal person), it must be a Qatari company and established according to the provisions of the Commercial Companies Law No. (5) of 2002, and its amendments. Moreover, the company's activities must include the practice of real estate development, and it must have at least three years of prior experience in the management

of construction and building projects. The company must not be adjudicated bankrupt.

The article text is as follows:

1. The Qatari Company shall have been established according to the provisions of the aforementioned Commercial Companies Law and shall include in its activities the practice of real estate development.
2. The Company shall have a past experience, of a minimum of three years, in the management of construction and building projects, prior to the submission of its application.
3. The company shall not be adjudicated bankrupt.

Non-Qatari Companies

The law specifies the conditions for licensing non-Qatari companies to engage in real estate development activities. It limits such activities to certain regions within which non-Qataris can own properties, according to the areas authorized for ownership. Examples of these areas include Pearl-Qatar Island, West Bay Lagoon, and Al Khor Resort.

The law also requires the company to be established abroad and shall include in its activities the practice of real estate development works. Furthermore, the law extends the required period of experience in the management of construction and building projects to ten years, in addition, it shall have established and implemented such projects. The company must also have offices in Qatar or in any of the GCC countries and be registered at the commercial register.

The article text is as follows:

1. The license shall be given for the regions within which non-Qataris can own properties, according to the areas authorized for ownership.
2. The Company shall be established abroad, according to the legislations regulating said matter, and shall include in its activities the practice of real estate development works. The incorporation documents shall be certified by a diplomatic delegation, the Qatari consulate in the country of incorporation, the establishment acting in its place or whoever handling its interests in the State wherein the headquarters is located.
3. The Company shall have a past experience, of a minimum of ten years, in the management of construction and building projects, prior to the submission of its application. It shall have established and implemented such projects, as it shall also have a good reputation and designation.
4. The company shall have offices in the State or in any of the GCC countries and shall be registered at the commercial register.

LICENSING PROCEDURES

Article (4) of the Law outlines the procedures and steps for obtaining a license to engage in real estate development activities from the designated department at the Ministry of Economy and Commerce. Applicants must submit their application to the competent Department using the approved model. The Department shall decide on the application and notify the concerned party of its decision, within thirty (30) days. Should the application be refused, said refusal shall be based on a grounded decision. If the aforementioned period passes without deciding on the application, the latter shall be deemed as rejected. The concerned party, whose application was rejected, may file a grievance before the Minister within sixty (60) days.

In case the license is approved, and after collection of the due fee, the Department shall issue a license, for the practice of real estate development works, for three years that can be renewed. The renewal application shall



be submitted during the month preceding the licence expiry date. The Department may accept the application, if submitted within the three months following the license expiry date, provided that the applicant gives, said Department, a reasonable excuse, as stated in articles four and five.

As for Article (6), it requires the establishment of a special register in the designated department at the Ministry for real estate developers to register those licensed to practice real estate development works. The text reads as follows: "A real estate developer register" shall be established in the Department to register the persons licensed to practice real estate development works. The Minister shall issue a decision on its regulation and specifying its data".

These provisions were included in the latest amendment to the law, which was approved by the Shura Council on 06/02/2023.

Developer's Obligations

Article (7) of the law imposes several obligations on the licensed developer to engage in real estate development activities. These obligations include: Adherence to the predetermined commencement and completion dates specified in the contract between the developer and purchaser, which delineates the reciprocal rights and responsibilities of both parties; Ensuring appropriate utilization of funds deposited into the Real Estate Development Trust Account, which holds payments from purchasers of off-plan units or project financiers; Following up and supervising the implementation of works assigned to the subcontractor; Preparing and submitting necessary reports as requested by the competent authorities; Ensuring compliance with approved technical specifications according to the general designs of the project submitted by the developer; Delivering the reserved units to their purchasers according to the agreed-upon timeline and specifications, and taking the necessary measures to register

said units in the purchasers' names.

These provisions were included in the latest amendment to the law, which was approved by the Shura Council on 06/02/2023.

Article (8) sets forth a limit on the percentage of work that a developer may entrust to a subcontractor, which must not exceed 50% of the project without having obtained the approval of the Department at the Ministry of Economy and Commerce.



GROUNDS FOR LICENSE CANCELLATION

Article (9) outlines five grounds upon which the Department shall revoke the developer's license:

- ◆ The developer fails to comply with any of the requirements stipulated in Article (3) of the law regarding license obtaining.
- ◆ If the developer has not started on the implementation of the project within six months from the date of having the off-plan sale approval, without giving any reasonable excuse to the Department.
- ◆ Launching the off-plan sale of the units, by way of fraud or deceit.
- ◆ If the developer used the accounts payable for purposes other than the ones dedicated thereto.
- ◆ The developer submitted to the Department an application requesting the suspension of his activity or the termination of his license.

APPEAL PROCESS

The concerned party, whose application was rejected, may file a grievance before the Minister within sixty days from the date of his notification of said decision by a registered letter or any other notification means.

As for the license revocation decision, it shall be published in two daily newspapers, one of which shall be in English, and such at the expense of the party whose license was revoked.

OFF-PLAN SALES BY THE DEVELOPER

Definition: The sale of the units divided on the map before the completion of their construction.

Article (10) specified to the developer the method in order to place the units divided on the map for sale, titled "Off-Plan Sale Procedures." The developer must submit an application to the Department on said matter, along with the following documents:

1. A certificate of opening an account according to the provisions herein.
2. The title deed of the project's land, along with a document proving the completion of the division on the map, stating all the data related to the divided units.
3. The estimated budget of the project, including the construction costs and the expected revenues, provided that it is adopted by the approved auditor in the state.
4. The draft announcement of the off-plan sale of units, according to provision of article (11) herein.
5. The contract forms.
6. The architectural designs and engineering plans of the project approved by the competent authorities.
7. A copy of the contract concluded between the developer and the contractor, if any.

Upon fulfilling and submitting these documents, the Department shall issue its approval, including the adoption of the draft announcement and the contract form.

ADVERTISEMENT REQUIREMENTS

Article (11) specifies the necessary information that must be included in the announcement for sale or participation in an exhibition, in addition to the approval of the Department's approval, the developer's trade name, his head office, a statement of the project's site, its nature, a detailed description thereof, including its total area size, the storey number, the areas specified for units and their specifications, the sale price given for each type of unit, the payment method, the place of inspection of the project and units, the account number, the bank's name, and other data requested by the Department.

The developer shall submit an application, to the competent Department at the Ministry of Justice, on the division of the real estate units of the project, along with the architectural designs, the engineering plans, and a true copy of the building license. The Department shall be responsible for the examination of the application and documents and shall refer them to the competent Department at the Ministry of Municipality and Urban Planning to take the measures prescribed for said matter, as per Article (12) of the Law.

INTERIM REAL ESTATE REGISTER

Article (13) mandates the registration of units in the real estate register, which is a record for property registration under the Ministry of Justice, established by Law No. (14/1964) regarding the real estate registration system. This register covers the organization, data, procedures, and registration fees. Its purpose is to register all the data related to the real estate units divided on the map, all the acts and rights in rem falling thereon and aiming at creating, transferring, modifying or removing an ownership right or any other real right, as well as the final judicial judgments prescribed thereto.

The developer shall apply the registration procedures, on the divided units of the completed project, within sixty (60) days from the date of having the construction completion certificate. Said registration shall include the sold units registered in the name of the purchasers who have fulfilled their contractual obligations, as per Article (16) of the Law.

The area of the real estate unit, registered in the interim real estate register, is the contracted area. Should this area be smaller than the effective one, upon delivery, the unit price shall be reduced according to the effective size



thereof, based on the meter price specified in the interim real estate register. In all cases, the damaged party may claim compensation if appropriate, as mentioned in Article (17) of the Law.

PENALTY FOR NON-REGISTRATION

Should the data be unregistered, the property rights cannot be created, transferred, modified, or removed. The unregistered acts must not have any effect other than the personal obligations between the concerned parties, as stated in Article (13).

TITLE DEED

The competent Department at the Ministry of Justice shall be responsible for the issuance of an interim title deed for every real estate unit divided on the map, based on the data of the interim real estate register. Said deed shall include the data related to each unit, along with an annotation on the original cadastre of the project's land to that effect, as per Article (14) of the Law.

DISPOSITION OF REAL ESTATE UNITS

The off plan sold units, and the ones registered in the interim real estate register can be sold, mortgaged or subject to any other legal acts. However, the disposal of any real estate unit, divided on the map, not having the approval of the competent authorities shall be prohibited. Any contract concluded otherwise, is a void contract, as mentioned in Article (15) of the Law.

TRUST ACCOUNT

The latest amendment to the law, approved by the Shura Council on 06/02/2023, introduced the trust account.

The trust account is a real estate development trust account opened in the bank within which are deposited the amounts paid by purchasers for the off plan sold units, or by the project's funders.

Every real estate development project shall have an independent account. Should the developer have numerous projects to implement, an independent account for each of them shall be opened, by virtue of an application he submits to the Department (Article 18).

The Central Bank shall issue the instructions and controls regulating the accounting management and the deposit procedures, as well as any other regulating provisions related thereto, as per Article (28) of the Law.

TRUST ACCOUNT OPENING AGREEMENT

The agreement between the developer and the bank which specifies the rights and obligations of each party and includes the following:

1. The developer's name and the agreement concluded between him and the owner in case the developer is on behalf of the owner.
2. The standards and controls that must be met before paying any amounts to the developer from the account.
3. The number of payments given to the developer during the implementation of the project, accompanied by a report from the project consultant that includes

their maturity, after being approved by the Commission, according to the stages of implementation.

4. The assessment of payments, deposited by purchasers in the account, with the actual achievements of the construction works, according to the developer's report approved by the Commission.

As per Article (19) of the Law.

in the units of said project. The 10% value or the remaining value thereof, shall only be disbursed when the time period defined by the Minister's decision expires, as per Article (22).

The trust account shall be confidential. Therefore, no one else than the developer and the competent administrative authorities can look into the account's data and have a copy thereof, unless by a judicial order or judgment, as stated in Article (23).

DEALINGS WITH THE TRUST ACCOUNT

Article (20) of the Law stipulates that the developer had achieved at least 20% of the construction works in the project to be able to withdraw from the trust account.

The percentage of such achieved works shall be estimated by comparing the works cost attributed to the total estimated cost of the project. Such a cost shall not include the value of the land, subject of development, nor the marketing expenses of the project. The developer must also submit an approved statement of account on the amounts that he has spent. The bank shall keep 10% of the project's total value or a banking guarantee approved by the competent authority, to ensure the restoration of the defects that may appear

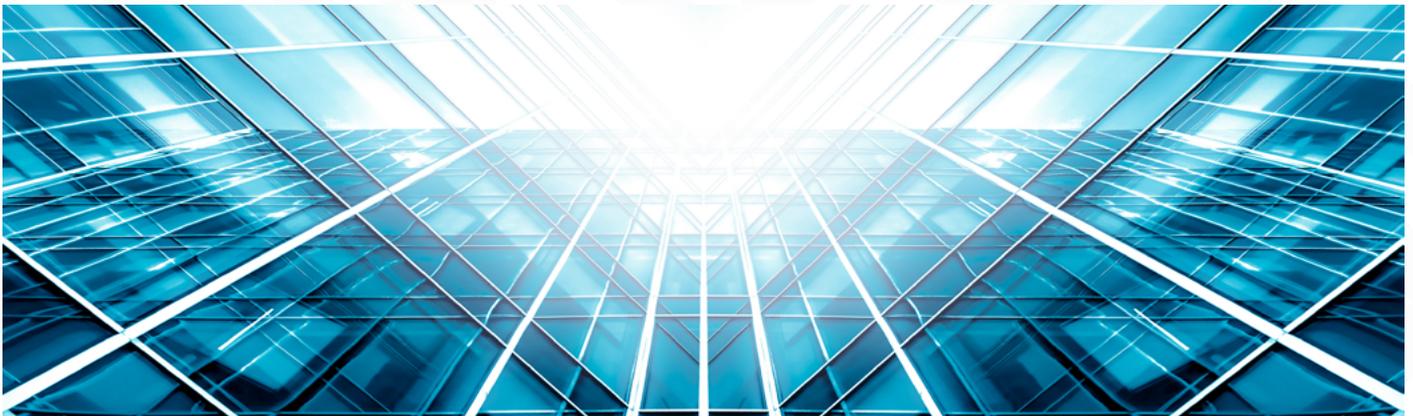
HOW THE BUYER PAYS FOR THE UNIT

Upon buying any of the units put on off plan sale, the contractor shall deposit the payments, agreed to be paid as the price of the reserved unit, on the date set in the contract.

Any payment disbursed, directly, to the developer or any representatives thereof shall not be considered.

Any type of lender financial institution must deposit, in the account, the amounts borrowed by the developer to guarantee the project.

In all cases nothing can be borrowed from the account, nor can the amounts deposited as the developer's debt settlement, be seized, whatsoever was the source thereof.



REGULATIONS FOR BORROWING WITH A PROJECT GUARANTEE

The developer may borrow amounts to guarantee the projects, after having the Department's approval, following the guidelines set forth in Article (25) of the law. These guidelines include:

- ◆ The units put on off plan sale must not be reserved, according to a certificate issued, on said matter, by the competent Department at the Ministry of Justice.
- ◆ The effective total value of the achieved parts of the project shall be equivalent or exceeding the total amounts deposited in the account, according to the technical report submitted by the project's consultant and adopted by the competent Department at the Ministry of Municipal Affairs and Urban Planning.
- ◆ The loan's value shall not exceed the total value of the unreserved units, according to the instructions issued by the Central Bank.
- ◆ The developer must submit a certificate, from the bank, on the status of the account.

Article (26) of the Law allows the real estate developer to obtain a license to carry out off plan sale operations if they have obtained a loan guarantying the project, provided that the total value of the achieved parts of the project is equivalent or exceeds the total value of the loan. Said fact shall be proven by the technical report submitted by the project's consultant and adopted, thereafter, by the competent Department at the Ministry of Municipal Affairs and Urban Planning.

Article (27) clarifies how to deal with any emergency leading to the suspension of the project, the Central Bank shall take the necessary measures, in coordination with the Department, to preserve the depositors' rights. In said case, the project can be assigned to another developer, according to the controls set by the Central Bank.



PENALTIES

The Law specifies penalties in Chapter (5), from Article (29) to Article (31), which are imposed on those who engage in real estate development activities without obtaining the necessary approvals and licenses, without prejudice to any more severe penalty provided for in any other law. These penalties range from imprisonment, fines, or both, depending on the type of violation. In Article (29), the law establishes imprisonment for maximum a year and a fine of maximum 50,000 Qatari Riyals, or either of the two penalties in six cases:

1. To practice real estate development works without having a license.
2. To announce or offer, through any means, an off-plan sale units in violation to the provisions of article (10) herein.
3. To obtain or facilitate the grant of an approval for the sale of the units divided on the map, by way of fraud or deceit.
4. To use or facilitate the use of accounts payable for purposes other than the ones dedicated thereto.
5. To have or facilitate the grant of a loan to guarantee the project without the Department's approval on said matter.
6. To delay the delivery of the units further than the date set in the contract without giving a reasonable excuse to the purchaser, or to deliver units not conforming with the technical specifications for which the contract was concluded or upon which the building license was issued.

From the six cases mentioned above, violations revolve around practicing real estate development works without a license or advertising real estate units for sale without following the legal procedures regarding off-plan sales, breaching the restrictions imposed on the trust account, using the account for purposes other than the intended purpose, and failing to deliver the units to the purchaser on the agreed date without a reasonable excuse. Moreover, delivering units that do not meet the agreed-upon technical specifications is also considered a violation.

As for Article (30) of the Law, the developer who has not launched the implementation of a project within six months from the date of having the approval on off plan sale, without giving any reasonable excuse, shall pay a fine of maximum 200,000 QR.

Article (31) outlines penalties related to a developer's obligations, including commencing work, using funds deposited in the trust account, overseeing and monitoring the subcontractor, preparing necessary reports as requested by the administrative designated department, adhering to the project's approved technical specifications, delivering reserved units to purchasers within the agreed-upon timeframe and according to the agreed-upon specifications, and finally, complying with the necessary procedures for registering purchasers' names in accordance with real estate registration laws in the designated department at the Ministry of Justice. The penalty for non-compliance is a fine of maximum 100,000 Qatari Riyals.

DISPUTE SETTLEMENT

The law sets out the process for settling disputes arising from real estate development in Articles (32) to (40), which provide for the establishment of one or more committees called the "The Committee for settlement of real estate development disputes" The committee is entrusted with the expeditious settling of such disputes.

COMMITTEE FORMATION

The committee shall be established at the Ministry. It shall be formed under the presidency of a Judge, in the position of Chief Judge of the First Instance Court, chosen by the Supreme Judiciary Council, along with two other members chosen by the Minister, one of whom is from the Ministry of Justice. This Committee shall be formed, and the remuneration thereof shall be specified by virtue of the Minister's decision issued within three months from the date of implementation of the provisions herein.

The committee shall have a Secretary assisted by a sufficient number of personnel. He shall be appointed, and his remunerations shall be specified by virtue of the Minister's decision. The Secretariat shall follow up and implement the decisions issued by the Committee, and all the matters related thereto, as indicated in Article (32).

COMMITTEE JURISDICTION

The committee shall, expeditiously, settle all disputes arising from real estate development.

DISPUTES CONSIDERATION PROCEDURES

The consideration procedures of the applications, the rules, and procedures to be followed before the Committee, the implementation mechanism of decisions, as well as the fees that must be collected for said matter, shall be specified by virtue of a Cabinet Decision and upon the suggestion of the Minister, as outlined in Article (33).

Committee Decisions

The decisions issued by the Committee shall have the power of the writ of execution stipulated in the Civil and Commercial Procedure Law No. (13/1990) and its amendments, as stated in Article (34).

APPEALING THE COMMITTEE'S DECISIONS

The concerned parties shall appeal the decisions issued by the committee before the Civil Department of the Court of Appeal, within fifteen days, starting the date of issuance of the Committee's decision, if said decision is issued in presence of the parties, or on the day following the announcement, if the decision was issued in absentia, as stated in Article (35).

The Committee's decisions shall be issued with requirement of expeditious execution, and only the competent circuit at the Court of Appeal may order stay of execution of its decisions, as stated in Article (36).



SETTLING REAL ESTATE DEVELOPERS SITUATION

Article (37) of the Law establishes a six-month period from the enactment of Law No. (6/2014), during which real estate developers settle their situation in accordance with the provisions of the law, as stated in Article (37).

JUDICIAL ENFORCEMENT (LAW ENFORCEMENT OFFICERS)

This was introduced in the latest amendment to the law, which was approved by the Shura Council on 06/02/2023. According to Article (38), the Public Prosecutor, in concurrence with the minister, may grant the capacity of judicial officer to the employees of the Authority, to detect and prove all crimes and violation to the provisions of Law No. (6/2014), as stated in Article (38).

Article (39) states that " Both, the Minister and the Minister of Justice shall issue, each within his competence, and after cooperation, the decisions implementing the provisions herein".

Lastly, Article (40) mandates all the competent authorities, each within its competence, shall implement this Law that shall be published in the Official Gazette.

CONCLUSION

Thanks to the State of Qatar's measures and policies, real estate became as a secure investment option. These policies include the execution of infrastructure and new projects in conjunction with several legal framework measures, such as the Real Estate Development Law. This law governs real estate development activities, attracting both domestic and foreign capital to the sector and ensuring stable real estate transactions, which comprise a significant

portion of the economy. As the second-largest economic sector after energy, real estate plays a crucial role in maximizing national revenue and positively impacting the achievement of Qatar's Vision 2030. This vision focuses on fostering a diversified and competitive national economy that meets the needs of Qatari citizens while maintaining a high standard of living for present and future generations.



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