

OFFICIAL ASSIGNEE

PRACTICE CIRCULAR NO. 1 OF 2008

1. INTRODUCTION

This Practice Circular sets down the requirements for sale of any immovable property in which a bankrupt has a share.

This is applicable for ALL categories of property **except** for HDB flats owned or co-owned by a bankrupt and where he or his co-owner is a Singapore Citizen.

2. CONSENT OF THE OFFICIAL ASSIGNEE TO THE PROPOSED SALE

Section 76(1)(a) of the Bankruptcy Act (Cap. 20) vests all the property belonging to a bankrupt, including any property in which he has an interest, in the Official Assignee upon the making of a bankruptcy order without the further need for a conveyance, assignment or transfer¹.

Therefore, the written consent of the Official Assignee is required **before** a bankrupt enters into an agreement to sell the property.

3. PROCEDURE FOR OBTAINING THE OFFICIAL ASSIGNEE'S CONSENT TO THE PROPOSED SALE

A bankrupt requesting the consent of the Official Assignee to any proposed sale of his property must submit the following documents:

- a. all relevant information on the proposed sale, including details of the buyers, and the proposed sale price;

¹ Section 76(1) states –

“On the making of a bankruptcy order —

(a) the property of the bankrupt shall —

- (i) vest in the Official Assignee without further conveyance, assignment or transfer; and
- (ii) become divisible among his creditors.”

- b. the Option To Purchase document;
- c. the valuation report on the property conducted by a qualified valuer², that is not older than **3 months** from the date on which the consent is first sought (if the proposed sale price is below valuation, the reasons for selling the property below valuation);
- d. a copy of the relevant title searches conducted at the Singapore Land Authority on the property;
- e. the latest Central Provident Fund ('CPF') statements of all the owners of the property evidencing the amount withdrawn and repayable to their respective CPF accounts (this must include the principal and interest accrued even if the bankrupt has attained CPF withdrawal age);
- f. the latest statement of account from the mortgagee bank on the total outstanding mortgage loan and a breakdown of the total interest accrued; and
- g. the mortgagee bank's written consent to the proposed sale of the property.

4. EFFECTING THE SALE OF THE PROPERTY

Solicitors acting for the bankrupt are required to prepare and submit the following documents in draft form for the Official Assignee's approval:

- a. Transmission Application on Bankruptcy of Proprietor (Form 47);
- b. Transfer document (Form 19);
- c. Draft completion accounts with the following information incorporated as separate items:
 - (i) the total outstanding mortgage loan and the outstanding interest on the said loan from the inception of the loan to the date of completion; and
 - (ii) the total outstanding mortgage loan and the interest payable by the bankrupt under s.76 (4) of the Bankruptcy Act at the date of expiry of the extension of time granted to the secured creditor³.

² A bare desktop valuation provided by a financial institution will **not** be accepted in lieu.

³ "...no secured creditor shall be entitled to any interest in respect of his debt after the making of the bankruptcy order if he does not realise his security within 6 months from the date of the bankruptcy order or such further period as the Official Assignee may determine"

These documents are to be submitted **at least 10 working days⁴ before** the date on which the completion is to take place.

If the documents submitted are in order, the engrossed copies of the Transmission Application and the Transfer document shall be submitted to the Official Assignee for his execution **at least 3 working days before** the completion date of the sale.

5. AFTER COMPLETION OF SALE

After the completion of the sale, the solicitor shall forward the final completion accounts within 3 working days to the Official Assignee.

The bankrupt's share of the sale proceeds (where applicable) shall also be forwarded within 3 working days in the form of a **cashier's order** made in favour of the Official Assignee.

6. EFFECTIVE DATE FOR COMPLIANCE

This Practice Circular shall come into operation from **Monday, 24 March 2008**.

7. ENQUIRY

Please direct any queries regarding the provisions of this Practice Circular in writing to ipto_enquiry@ipto.gov.sg.

Dated this 14th day of March 2008



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⁴ Working days are Mondays to Fridays, excluding, Saturdays, Sundays and Public Holidays.