

APARTMENT OWNERSHIP LAW

Under the principles of Roman Dutch Law, which is the Common Law of Sri Lanka, a building constructed on a land would be the property of the owner of the land. This is expressed by the maxim *superfices solo cedit*. Therefore if a land is disposed of the building would also be generally transferred with the land.

With the scarcity of land particularly in the urban areas in Sri Lanka as in most countries there was a rise in the construction of apartments. These apartments were a part of a multi storey building. A device had to be formulated to transfer ownership of these units to the purchasers. As the common Law provisions did not provide for such a situation most countries had to enact legislation for this purpose. Accordingly Sri Lanka to enacted in 1973 the apartment ownership law which was subsequently amended by Act No. 45 of 1982, 4 of 1999 and 39 of 2003.

Originally the Act made provision only for transfer of completed condominium units. Prospective purchase of units, which are partly constructed or to be constructed did not have any statutory protection. It was a practice of most developers to enter into sale agreements in respect of units partly constructed or proposed to be constructed and such units to be transferred subsequently once the condominium plan has been duly registered. However the registration of such condominium plans has also taken a considerable time and it is not unusual for registrations to be delayed for several years. To inter alia remedy this position the Act of 2003 was enacted which provides for registration of plans relating to provision of condominium property and semi condominium property.

Section 02 of the law makes reference to three types of condominium property viz –

- A Condominium Property
- B Provisional Condominium Property
- C Semi Condominium Property

A Condominium Property is any building erected on alienated land held as one land parcel and capable of being subdivided into parcels.

A Provisional Condominium Property is any building erected on alienated land held as one land parcel and capable of being subdivided into parcels.

A Semi Condominium Property is any building on alienated land held as one land parcel, on which there are more than one completed condominium parcels fit for human habitation.

Semi Condominium plan as been defined in Section 26 as follows –

“Semi Condominium Plan” means a plan of a partly completed condominium property which:-

- (a) is described in the title of heading thereto as Semi Condominium Plan;
- (b) shows the whole or any part of the land parcel comprised therein with a partly completed building having one storey;
- (c) is capable of being subdivided into two or more condominium parcels with provisions for future construction of two or more storeys or partly completed building having one storey capable of being sub-divided into parcels;
- (d) contains the particulars set out in section 5B;
- (e) has more than one completed condominium parcel and such condominium parcels are fit for human habitation

Provisional Condominium Plan is defined in Section 26 and means a Plan of “Provisional Condominium Property” which –

- (a) is described in the title or heading thereto as Provisional Condominium Plan;
- (b) indicates the whole or any part of the land parcel, and the building proposed to be erected, and shall be capable of being sub-divided into parcels;
- (c) contains the particulars set out in section 5a.

Land Parcel is defined as –

“Land parcel” includes land parcel of any tenure, any building or parts thereof, so much of the air-space above the surface as may be reasonably used or enjoyed by any owner, and all substances, under the surface, (excluding minerals within the meaning of the Mines and Minerals Law, No. 4 of 1973) whether or not held apart from the surface and any estate or interest therein;

Section 3 states that the owner of any Condominium Property, any Provisional Condominium Property or any Semi Condominium Property as the case may be,

may make any application in the prescribed form to the Registrar with the prescribed fee for the registration of a Condominium Plan, or a Provisional Condominium Plan or a Semi Condominium Plan as the case may be.

In terms of Section 3 the owner of any land parcel on which there is a completed building capable of being subdivided under section 2 and which is certified by the General Manager of the Condominium Management Authority, to be fit for occupation or use shall, make applications with the period specified in paragraph (a) or (b), as the case may be, in the prescribed form with the prescribed fee to the Registrar, for the registration of a Condominium Plan which shall accompany such application, if at any time he has sold or is in agreement to sell :-

- (a) Within eighteen months from the date of such first sale or in agreement to sell or three months from the date of the completion of such building which ever is earlier;
- (b) Within six months from the date of completion of such building, if the sale or agreement to sell of 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.

Section 3 A makes provision relating to the application for registration of a Condominium Plan. Such application shall be made in triplicate in the prescribed form. The original and the duplicate shall be sent to the Registrar and the triplicate be sent to the General Manager of the Condominium Management Authority.

Such application shall be accompanied by the following particulars -

- (a) the prescribed fee;
- (b) the building plan approved by the planning authority in triplicate;
- (c) the Condominium Plan in triplicate containing such details as are specified in section 5;
- (d) certificate from a qualified architect or a qualified civil or structural engineer, to the effect that the building was constructed in accordance with the plans and specifications by reference to which, permission was granted indicating the date on which such permission was granted and the reference number thereof;
- (e) the written consent of every person who, if any, is entitled to the benefit of –

- (i) a charge on the land;
 - (ii) a lease of the whole or any part thereof;
 - (iii) a charge of such lease; or
 - (iv) a lien over the land or any such lease;
- (f) the certificate of conformity issued by the local authority within those limits the land is situated and empowered to approve the building plan;
- (g) the Certificate of Title for the land parcel;

Provided however, whether the Certificate of Title to the land parcel, is not in the possession of the owner, but in the possession of any other person, a copy of a request by such owner served on such other person for the production of such Certificate to the Registrar within fourteen days from the date specified in such request shall be attached to such application;

- (h) (i) where there is a mortgage on the Condominium Property proposed to be registered a declaration by the applicant stating details as regards the –
- (A) finances already raised by mortgaging the Condominium Property and the name of such financial institution;
 - (B) total amount borrowed under the aforesaid mortgage and the amount secured against each such Condominium Plan proposed to be registered.
- (ii) where there is no such mortgage on the Condominium Property proposed to be registered the owner shall make a statement to that effect.
- (i) a certificate from the General Manager of the Condominium Management Authority certifying that the common amenities provided for the benefit and the welfare of the occupants of the condominium parcels of the building are satisfactory and arrangements made as regards the control, administration, maintenance or management of the common elements of the Condominium Property are satisfactory; and

- (j) A declaration by the applicant, attested by a Notary Public, which shall contain -
- (i) a description, by reference to the cadastral map, of the land parcel on which the building is located and to which title is claimed, its boundaries, extent and situation specifying the Administrative District, Divisional Revenue Officer's Division, Village, Ward, Pattu, Korale or other division or district in which the land parcel is situated and in case the land parcel is situated in a town, the name, if any, of the street in which it is situated, together with the assessment number;
 - (ii) the name and address of the owner or owners or the condominium parcels;
 - (iii) the particulars of deeds, instruments or other documents and of other evidence of title relies upon by the applicant in support of the claim to title;
 - (iv) a reference to the division, volume and folio in which the title is registered under the Registration of Title Act, No. 21 of 1998 and, if the land parcel is not so registered, a declaration to the effect that the land parcel is not so registered;
 - (v) the particulars of every encumbrance, lispendens, seizure, order or decree affecting the land parcel, to the knowledge of the applicant;
 - (vi) a description of the building, stating the number of storeys and basement and the number of condominium parcel;
 - (vii) the number of other symbols identifying each condominium parcel and a statement of its location, floor area, number of rooms, any immediate common area to which it has access, and any other information for the purpose of identification, including corresponding information relating to an accessory parcel, if any;
 - (viii) a description of the common elements of the Condominium Property;
 - (ix) a description of the accessory parcels of the Condominium Property, specifying the condominium parcels they are made appurtenant to, irrespective of whether the accessory

parcels are contiguous to the specified condominium parcels or otherwise;

- (x) the undivided share value of each condominium parcel in the common elements of the Condominium Property;
 - (xi) the percentage of the undivided share in common elements appurtenant to each condominium parcel;
 - (xii) a statement of the purpose for which the building and each of the condominium parcel is intended and restricted as to its use;
 - (xiii) a statement of account on the advances already dawn from the prospective purchasers giving their names for allocation of condominium parcels in the Condominium Plan;
 - (xiv) any further details in connection with the condominium property which the applicant may deem desirable to set forth consistent with this law;
 - (xv) any other information which may be required to be provided by or under any written law;
 - (xvi) the signature of the owner or owners of the condominium property;
- (k) reference number in the case of the registration of the Semi Condominium Plan or the Provisional Condominium Plan, as the case may be.

3 B (1) (a) The application to register a Provisional Condominium Plan in terms of Section 3 B shall be made in triplicate.

- (b) The “original” and the ‘duplicate” of such application shall be sent to the Registrar and the “triplicate” shall be sent to the General Manager of the Condominium Management Authority.

(2) Every application made under subsection (1) shall be accompanied by -

- (a) the prescribed fee;
- (b) the building plan approved by the planning authority, in triplicate;

- (c) the Provisional Condominium Plan containing such particulars specified in section 5A;
- (d) the written consent of every person who, if any, is entitled to the benefit of -
 - (i) a charge of the land;
 - (ii) a lease of the whole or any part thereof;
 - (iii) a charge of such lease; or
 - (iv) a lien over the land or any such lease.

- (e) the Certificate of Title for the land parcel:

Provided however, where the Certificate of Title of the land parcel, is not in the possession of the owner, but in the possession of any other person a copy of a request by such owner served on such other person for the production of such Certificate to the Registrar of Title within fourteen days from the date specified in such request shall be attached to such application;

- (f) a certificate from the General Manager of the Condominium Management Authority certifying that -
 - (i) common amenities required to be provided to the proposed building, has been provided for in the approved building plan;
 - (ii) the common elements of the proposed building has been properly designed in the proposed building plan, to ensure proper control, administration, maintenance or management of such common elements by the Management Corporation;
- (g) a declaration by the applicant, on the -
 - (i) availability of funds for the construction of the building supported by a certificate from a recognized financial institution stating the availability of financial support for the construction of such building;
 - (ii) details of the finances already raised or to be raised by mortgaging the Provisional Condominium Property, and the amount secured or to be secured against each provisional condominium parcel or parcels, and

the name of such financial institution, supported by a certificate from the recognized financial institution;

- (h) a financial report confirming the cost of the construction verified by a qualified quantity surveyor, or a qualified civil or structural engineer;
 - (i) implementation plan of the total construction indicating the proposed date of commencement and the proposed date of completion of each of the following activities supported by a certificate of the qualified architect or a qualified civil or structural engineer as the case may be;
 - (i) foundation columns
 - (ii) construction of walls;
 - (iii) construction of storey;
 - (iv) construction of roof;
 - (v) final finishing up to the level for human habitation.
 - (j) a declaration by the applicant attested by a Notary Public containing the requirement specified in paragraph (j) of subsection (2) of section 3A.
- (1) (a) Every application to register a Semi Condominium Plan shall be made to in the prescribed form in triplicate.
- (b) The “original” and the “duplicate” of such application shall be sent to the Registrar, and the “triplicate” shall be sent to the General Manager of the Condominium Management Authority.
- (2) Every application made under subsection (1) shall be accompanied by -
- (a) the prescribed fee;
 - (b) the building plan approved by the planning authority, in triplicate;
 - (c) the Semi Condominium Plan containing such particulars specified in section 5B

(d) the written consent of every person who, if any is entitled to the benefit of –

- (i) a charge on the land;
- (ii) a lease of the whole or any part thereof;
- (iii) a charge of such lease;
- (iv) a lien over the land or any such lease.

(e) the certificate of title for the land parcel -

Provided however, where the Certificate of Title to the land parcel, is not in the possession of the owner, but in the possession of any other person a copy of a request by such owner served on such other person for the production of such Certificate for the Registrar of Title within fourteen days of the date specified in such request shall be attached to such application;

- (f) a certificate from the General Manager of the Condominium Management Authority certifying that the common amenities provided for the benefit and welfare of the occupants of the condominium parcels of the building are satisfactory and arrangements made as regards the control, administration, maintenance or management of the common elements of the Condominium Property are satisfactory.
- (g) a certificate of conformity from the local authority within whose limits the land is situated and empowered to approve the building plan;
- (h) a certificate from a qualified architect or a qualified civil or structural engineer, as the case may be, to the effect that the completed condominium parcels and provisional condominium parcels shown in the Semi Condominium Plan has been drawn in accordance with the approved plans and specifications by reference to which, permission was given stating there in the date on which such permission was given and the reference number thereto;
- (i) the reference number in the case of the registration of a Semi Condominium Plan or a Provisional Condominium Plan, as the case may be;

- (j) (i) where there is a mortgage on the Condominium Property proposed to be registered a declaration by the applicant stating details as regards the -
 - (A) finances already raised by mortgaging the Condominium Property and name of such financial institution;
 - (B) total amount borrowed under the a aforesaid mortgage and the amount secured against each such condominium Plan proposed to be registered.
 - (ii) where there is no such mortgage on the Condominium Property proposed to be registered the owner shall make a statement to that effect.
 - (k) a declaration by the applicant attested by a Notary Public containing the requirements specified in paragraph (J) of subsection (2) of section 3A.
3. a Condominium Plan or a plan or re – division or amalgamation shall be deemed to be an instrument affecting land for the purposes of the Registration of Documents Ordinance.

Section 5

- (l) the Condominium Plan shall comprise of a survey plan or plans which shall be prepared and drawn by a licensed surveyor or by or under the authority of the Surveyor General and shall -
 - (a) delineate the external surface boundaries and boundary marks of the Condominium Property and the position of each subdivided building thereon fixed in relation to the surface boundaries;
 - (b) specify the division, volume and folio in which the land parcel is registered and the surveyed area thereof;
 - (c) include a vertical section of each subdivided building showing -
 - (i) the floors and ceilings of each storey; and
 - (ii) the height of each storey
 - (d) include a description, as well as the vertical section and dimensions, of each building erected within the Condominium Property as a completed subdivided building, in accordance with

building plans and sub-division plans approved by the authority for the time being responsible for the approval of such plans;

- (e) delineate, subject to the provisions of subsections (2) and (3), each condominium parcel and define the boundaries thereof by reference to floors and walls showing the horizontal dimensions, without it being necessary to show any bearing;
- (f) identify the condominium parcels into which each building is divided and distinguish such parcels by assessment numbers, numbers or other symbols;
- (g) distinguish each storey by an index letter in relation to the land parcel number of the Condominium Property and specify the condominium parcels in each storey in relation to the number of such storey;
- (h) specify the approximate floor area of each condominium parcel ;
- (i) delineate the external boundaries and show the horizontal dimensions without it being necessary to show any bearing of each building erected within the Condominium property as a completed subdivided building in accordance with building plans any subdivided plans approved by the authority for time being responsible for the approval of such plans;
- (j) define the common elements of the Condominium Property;
- (k) bear an endorsement by the person preparing it to the effect that the building shown in the condominium plan is within the external horizontal boundaries of the Condominium Property.
- (l) to it a certificate from a registered architect or a registered professional civil or structural engineer to the effect that the condominium parcels shown therein are the same as those existing on the Condominium Property;
- (m) enter the share value of each condominium parcel in the plan in compliance with the provisions of Section 20A; and
- (n) bear an endorsement with a certificate of a licensed surveyor that all buildings and all Condominium parcels shown in the Condominium plan in relation to the external surface boundaries of the Condominium Property are within the Condominium Property and are in compliance with the building plan, and the subdivision

plans issued by the authority for the time being responsible for the approval of such plans.

- (o) show the share values in whole numbers of each condominium parcel and number equal to the aggregate share value entitlement of all the condominium parcel;
 - (p) have endorsed upon it the address at which documents may be served on the management corporation in accordance with Section 20N; and
 - (q) contain such other particulars as may be prescribed.
- (2) Where an accessory parcel consists of a building and is bounded by external walls, floors and ceilings, and dimensions and boundaries of such accessory parcel shall be shown in the Condominium Plan in accordance with the requirements of subsection (1)
- (3) where an accessory parcel does not consist of a building –
- (a) the external boundaries of the accessory parcel shall be ascertained from the building plan and subdivision plans approved by the authority for the time being responsible for the approval of such plans and the accessory parcel shall be unlimited in its vertical dimension except to the extent of any projection above, or encroachment below ground level by another part of the condominium property; and
 - (b) the Condominium Plan shall show a diagram of the accessory parcel with similar dimensions as those shown on the approved plans referred to in paragraph (a)
- (4) Unless otherwise stipulated in the Condominium Plan, the common boundary on any condominium parcel with another condominium parcel or with the common elements shall be the centre of the floor, wall or ceiling as the case may be.

The contents of a Provisional Condominium Plan and a Semi condominium plan are contained in Sections 5 A and 5 B respectively

Section 5A provides as follows –

The Provisional Condominium Plan shall be prepared and drawn by a licensed surveyor or by or under the authority of the Surveyor General and shall -

- (a) delineate the external surface boundaries and boundary marks of the proposed Condominium Property and position of each subdivided building proposed to be erected thereto in relation to the surface boundaries;
- (b) Specify the division, volume and folio in which the land parcel is registered and the surveyed area thereof;
- (c) include a vertical section of each subdivided building proposed to be erected showing -
 - (i) the floors and ceiling of each storey; and
 - (ii) the height of each storey
- (d) include a description as well as the vertical section and dimensions, of each building proposed to be erected within the land parcel in accordance with building plan approved by the authority for the time being responsible for the approval of such plans;
- (e) delineate, subject to the provisions of subsections (2) and (3) of section 5, each proposed condominium parcel and defined the boundaries thereof by reference to floors and walls showing the horizontal dimensions, without it being necessary to show any bearing;
- (f) identify the proposed condominium parcels in to which each proposed building is to be divided and distinguish such parcels by assessment numbers, numbers of other symbols;
- (g) distinguish each proposed storey by an index letter in relation to the land parcel number of the cadastral map and specify the proposed condominium parcels in each storey in relation to number of such storey.
- (h) specify the approximate floor area of each proposed parcel;
- (i) delineate the external boundaries and show the horizontal dimensions without it being necessary to show any bearing of each building proposed to be erected within the land parcel in accordance with the building plan approved by the authority for the time being responsible for the approval of such plan;
- (j) define the provisional common elements of the provisional condominium property;

- (k) show the provisional share values in whole numbers of each proposed condominium parcel and a number equal to the aggregate provisional share value entitlement of all the proposed condominium parcels;
- (l) bear an endorsement by the person preparing such plan to the effect that the building proposed to be erected shown in the Provisional Condominium Plan is in accordance with the building plan approved by the authority for the time being responsible for the approval of such plan.

Section 5B provides as follows –

The Semi Condominium Plan shall be prepared and drawn by a licensed surveyor or by or under the authority of the Surveyor General and shall –

- (a) delineate the external surface boundaries and boundary marks, of the Semi Condominium Property and the position of each partly completed subdivided building thereon fixed in relation to the surface boundaries and the position of the balance portion of the building yet to be completed in accordance with the building plan approved by the authority for the time being thereon in relation to the surface boundaries;
- (b) specify the division, volume and folio in which the land parcel is registered and the surveyed area thereof;
- (c) include a vertical section of each partly completed subdivided building showing
 - (i) the floors and ceiling of each storey; and
 - (ii) the height of each storey
- (d) include a description separately of the vertical section and dimensions of partly completed building erected, and vertical section and dimensions of balance portion of the building yet to be completed within the land parcel in accordance with building plan approved by the authority for the time being responsible for the approval of such plans;
- (e) delineate, subject to the provisions of subsections (2) and (3) of section 5, each condominium parcel of the partly completed building, and define the boundaries thereof by reference to floors

and walls showing the horizontal dimensions, without it being necessary to show any bearing;

- (f) identify the condominium parcels of the partly completed building, into which each building is to be divided and distinguish such parcels by assessment numbers, numbers or other symbols;
- (g) distinguish each storey by an index letter in relation to the land parcel number of the cadastral map and specify the condominium parcel of the partly completed building in each storey in relation to the number of such storey;
- (h) specify the approximate floor area of each parcel;
- (i) delineate the external boundaries and show the horizontal dimensions without it being necessary to show any bearing of each partly completed building erected within the land parcel in accordance with the building plan approved by the authority for the time being responsible for the approval of such plan;
- (j) define the common elements of the Semi Condominium Property;
- (k) show the share values in whole numbers of each condominium parcel of the partly completed building and each provisional condominium parcel of the balance portion of the building yet to be completed and a number equal to the aggregate share value entitlement of all such condominium parcels and all such provisional condominium parcels;
- (l) bear an endorsement by the person preparing such plan to the effect that the partly completed building erected shown in the Semi Condominium Plan is in accordance with the building plan approved by the authority for the time being responsible for the approval of such plan;

Section 6 provides for the re-division, amalgamation and appeals against refusal. Upon receipt of any application for the registration of a Condominium Plan, Provisional or Semi Condominium Plan or any application for the amendment or any application or re-division of the plan or any registration of a plan or addition the Registrar shall refer such application with such plans or the plan of amendment, re-division or amalgamation as the case may be to the Superintendent of Survey for certification and where the Superintendent of Survey is satisfied that the application conforms to the provisions of the Registration of Title Act No. 21 of 1998 he may duly certify such plan, file the duplicate of the Condominium Plan in the Condominium Parcel file and open a

new title file making suitable cross reference and also make the other entries referred to in Section 6(3).

Section 6 (1) (b) refers to procedures relating to the registration of a Provisional Condominium Plan. Upon registration of such Condominium Plan the Registrar shall inform the applicant that the Provisional Condominium Plan has been registered and notify him of the reference, numbers of the relevant registers with a notification to the Condominium Management Authority and issue a certificate of Provisional Condominium Title in respect of an individual Provisional Condominium Parcel on receipt of the prescribed fee.

Section 6 (1) (c) provides for the registration of Semi Condominium Plan and once registered the Registrar shall notify the applicant of the relevant registers with a notification to the Condominium Management Authority and issue a certificate of the Semi Condominium title in respect of the individual Condominium Parcels.

In both cases there is provision for the recordal of encumbrances including the existence of mortgages and the amount secured against such Condominium Parcel and the particulars of every encumbrances such as leases, agreements for sale, lispensens, seizure orders or decrees effecting the Condominium Parcel.

Section 6 (1)(d) provides for registration of any plan of any amendment of the registered Condominium Plan or the registered Semi Condominium Plan or plan of any re-division or any plan of amalgamation to the registered Condominium Plan or to the registered Semi Condominium Plan.

Section 7 (a) (2) provides –

The registration of the Condominium Plan or the Provisional Condominium Plan or the Semi Condominium Plan, as the case may be, the owner of any condominium parcel of the Condominium Property, the owner of any Provisional Condominium Property or the owner of any condominium parcel of the Semi Condominium Property shall be deemed to be the owner of his parcel and his share in the common elements or Provisional common elements, subject to the encumbrances, if any, registered or notified in the relevant register.

Provision is also made in Section 8(a) for an owner of a Semi Condominium Property to apply to the Registrar for the registration of Condominium Parcel subsequently added to the partly completed building and Section 8(b) provides for the owner of any registered Provisional Condominium Property to apply to the

Registrar for the registration of a plan of amendment to the registered Provisional Condominium Plan and which should contain the specified particulars therein.

Provision has been made in section 6 of the second schedule as follows –

For the avoidance of doubts it is hereby declared that until an order under section 1 of the Registration of Titles Act No. 21 of 1998 is made extending the application of the provisions of the aforesaid Act to any province, administrative district or administrative division a the case may be the Registration of Documents Ordinance (Chapter 117) shall continue to apply to and in relation to, the registration in accordance with the provisions of this Act -

- (a) of a Condominium Plan, a Provisional Condominium Plan or a Semi Condominium Plan;
- (b) of a plan of amendment of a registered Condominium Plan, a registered Provisional Condominium Plan; or a registered Semi Condominium Plan;
- (c) of a plan of re-division or amalgamation of a registered Condominium lan or a registered Semi Condominium plan;

In respect of any Condominium Property, provisional Condominium Property or Semi Condominium Property as the case may be, situated within any such aforementioned province, administrative district or administrative division.

The effect of the registration of a Condominium Plan is given in Section 09. In terms of this section upon the registration of a Condominium Plan or a Semi Condominium Plan each building or partly completed building depicted in such plan shall be deemed to be divided into parcels and identified therein and there upon the common element shall be held by the owners of all the Condominium Parcels as tenants in common proportionall to their respective share parcels and for the same term and tenure as their respective Condominium Parcels are held by them.

In terms of Section 9(A) upon the registration of a Provisional Condominium Plan each Provisional Condominium Parcel depicted therein together with the provisional common elements appurtenant thereto shall be deemed to be absolutely owned by the owner of the Provisional Condominium Property and shall exercise such ownership subject to the limitation referred to in the section. In particular upon the registration of a Condominium Plan the owner shall not sell, lease, rent or dispose in any manner other than by way of a mortgage a land parcel where the proposed building is to be erected, shown on the registered Provisional Condominium Plan, until the said building is partly completed and registered as Semi Condominium Property. Where a sale, lease or any other

disposition other than the mortgage is executed by or on behalf of the owner in contravention of these provisions such act shall be null and void and shall have no force in law.

Section 11 provides that no share in the common elements of a registered Condominium Plan or Semi Condominium Plan may be disposed of other than as appurtenant to the Condominium Parcel of such property and any alienation of any Condominium Parcel shall be deemed to convey the undivided share of common elements. Notwithstanding the fact that no specific or particular reference has been made thereto.

Common elements are defined as follows -

(a) in relation to any condominium property or Semi Condominium Property or Provisional Condominium Property which is comprised in any plan approved by the authority for the time being responsible for the approval of such plan means so much of the land parcel for the time being not comprised in any condominium parcel shown in a Condominium Plan or Semi Condominium Plan and

(b) unless otherwise described specifically as comprised in any condominium parcel in a Condominium parcel in a Condominium Plan or Semi Condominium Plan or provisional condominium plan and shown as capable of being comprised in such condominium parcel includes -

1. foundations, columns, gardens and external beams, supports, main walls, roofs, walls, lobbies, corridors, stairs, stairways, fire escapes, entrances, exits of the building or buildings,
2. car parks, recreational, or community facilities, gardens, parking areas, roofs and storage spaces,
3. central and appurtenant installations for services such as power, light, gas, hot and cold water, heating, refrigeration and air-conditioning, telephone, radio rediffusion, garbage disposal and incinerators,
4. escalators, lifts, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus,
5. premises for use by security guards, caretakers and watchmen,
6. all facilities described as common elements in any plan for a condominium development approved by the authority for the time being responsible for such approval and all facilities which may be shown in a legend of a Condominium Plan or

Semi Condominium Plan or Provisional Condominium Plan as common elements, and

7. all other parts of the land parcel and comprised in any condominium parcel necessary or convenient to the existence and maintenance and for the reasonable common use and safety of the common elements including the roads and access drains and ditches, lanes, parks playgrounds and other open spaces appurtenant to the Condominium Property and Semi Condominium Property.

Section 11 A provides no accessory parcel shall be dealt independently of the Condominium Parcel to which such accessory parcel has been made appurtenant.

Accessory parcel is defined in Section 26 to mean a parcel intended for separate ownership and with any other specified Condominium Parcel or Condominium Parcels, for any purpose.

There is provision in Section 12 for any owner or owners of Condominium Parcels of the Condominium Property or Semi Condominium Property to apply in writing to the Registrar for the registration of a plan of re-division or plan of amalgamation. Such application shall contain the particulars referred to in Section 12 subsection (2).

Provision is made in Section 13 to statutorily imply certain servitudes in respect of each land parcel and Section 15 provides that the owners of all the parcels may by unanimous resolution at a meeting convened by the management corporation direct the corporation to execute on their behalf a grant of servitudes or a restrictive covenant or to accept on their behalf a grant of a servitude or a restrictive covenant.

Similarly Section 16 provides that the owners of all the parcels may by special resolution at a meeting convened by the management corporation direct the management corporation to transfer a part of the common element.

Section 17 enables the owners of all the parcels by special resolution to direct the management corporation to accept land or any part thereof free of encumbrances except those stated by statute and subsisting servitudes.

Section 18 provides for amalgamation of common elements. Where there are two or more management corporations established the owners of all the parcels being the members of such management corporation may by respective special resolution direct that for the purpose of amalgamating the common elements the transferor shall execute an instrument of transfer of the common elements of

those Condominium Properties so that such common elements shall become vested as common elements in all the owners of the parcels as tenants in common.

Section 19 enables for an owner of a Condominium parcel to make an application to the District Court of the District within which the registered Condominium property is situated for an order directing the Management corporation to

- (a) transfer a part of the common elements; or
- (b) accept a transfer of any land or part thereof or any parcel so that the land or part thereof or parcel shall form part of the common elements; or
- (c) amalgamate the common elements of two or more management corporations.

Section 20 B provides that the owners of the parcels shall by virtue of law upon registration of the Condominium Plan or the Semi Condominium Plan be a body corporate with perpetual succession and a common seal called as a Management Corporation. The by laws set out the second schedule shall not be amended or re-placed by the management corporation.

The duties of the management corporation are given in Section 20 C and the rules relating to the management corporations are contained in the first schedule of the statute.

The Management Corporation is an important institution as it inter alia has to maintain the various units and ensure proper services are being supplied. If the Management Corporation does not function properly then the unit holders would have difficulty in comfortably living in their apartments.

Section 20 F provides that where the Common Amenities Board is satisfied that the Management Corporation is not carrying its duties or performing its business satisfactorily and is of the opinion that certain duties must be carried out urgently or immediate action must be taken, the Common Amenities Board shall have the power and may perform the duties of the Management Corporation until an administrator is appointed as referred to in Section E of the Act.

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