

**Filling the gaps and addressing the deficiencies concerning the rights of purchasers of provisional condominium property: prospectus and challenges from a Sri Lankan context**

G.P.D. Madhushan \*

Department of Private and Comparative Law, University of Colombo

K. A. A. N. Thilakarathna

Institute of Human Resource Advancement, University of Colombo

While the condominium properties have emerged as a part of new urbanization, this new concept is an exception to the classical Roman concept *superficies solo cedit*. An owner of a condominium property has a restricted ownership which is confined to the prorate extent of the land together with the owners of other parcels of the same condominium, which could be considered a notional ownership. This is exemplified when one considers provisional condominium property where the ownership is vested on a thing which is either not being fully built or is in the process of being built. These are usually carried out with the investments of individuals, who intends upon the purchase of such properties upon their completion. Using the black letter approach embedded in the qualitative methodology, this research endeavour to critically analyze the rights of the owner of a provisional condominium property. The findings of this research have revealed that, the non-existence of the subject matter at the time of entering the contract is detrimental to the owner of such a property since the owner of such provisional condominium property may not have anything to show for till the property is erected. A further issue relates to the bankruptcy of the developer, in which event the investor may not be left with an effective remedy, unless his investment was insured. There is also the issue of registering the property since the law does not make it mandatory. Therefore, there is an urgent need to find law reforms in these areas to uplift the rights of purchasers of provisional condominium property and one of the best solutions can be found in introducing an insurance system to safeguard the rights of the investor.

Keywords: apartment ownership, provisional condominiums, Roman-Dutch Law

---

\* Email: dumindu@law.cmb.ac.lk