

**A STUDY OF THE LEGAL ISSUES OF CONDOMINIUM
PROPERTY IN SRI LANKA: LESSONS FROM UK AND
INDIA.**

by



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PERMANENT REFERENCE

CERTIFICATION OF THE SUPERVISOR

ON INCORPORATION OF EXAMINERS COMMENTS

This is to certify that Mr. H.A. Mahesh Raveendra Aththanayake has incorporated the relevant corrections according to the comments made by the examiners.

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ABSTRACT

Condominium property in Sri Lanka is governed by the Apartment Ownership Law 1973 which was subsequently amended by major amendments of Act No. 45 of 1982, 4 of 1999 and 39 of 2003 to regulate this major real property development. Whereas nearly two decades have passed since the last major amendment to the law in 2003, there has been a significant development and increase in condominium properties in Sri Lanka and correspondingly problems faced by purchasers and developers also have increased due to the applicable law is not sufficient to address such problems. The study mainly addresses the situation where upon the perspective of both purchaser and the lending institutions, when there is a pre-sale agreement with a mortgage where the developer himself is a mortgagor, the protection of both purchaser and the lending financial institution or the mortgagee is in a real risk with the inherent nature of prevailing apartment ownership law. It is observed that within this frame of a situation neither prospective buyers have confidence to invest in this sector nor lending financial institutions have assurance to lend money for the developers upon mortgagors. The study is based on qualitative data analysis with the collaboration of library based research for collect primary data via institutional resources. Key informant interviews were conducted with relevant stakeholders lying with individual variable in order to deeply analyze practical issues relating to condominium properties due to certain lacunas of prevailing law. The research has been underpinned by main two comparative jurisdictions i.e. the practices of UK and India relating condominium properties. And conclusively and comparatively it can be inferred that the secured level of the prospective purchaser and the lending financial institution in the aforesaid scenario is in an underdeveloped level in Sri Lanka. It has been suggested that to establish a compulsory Escrow Account for every transaction between the developer and purchaser in a condominium property where the consideration paid by the purchaser to be credited to a particular Escrow Account till the building is constructed up to a stipulated level. Through this recommendations, the research seeks avenues to make the transaction of condominium property reliable, stable and just within the framework of Apartment Ownership Law of Sri Lanka.

Key words: pre-sale agreements, lending financial institutions, prospective purchasers' rights