

Getting "REAL" With Build & Sell

by Laura Lee And Mary Anne Tan



K_G Lim is a businessman who wanted to give the best for his four children. So, he bought four condo units in the Rhythm Avenue project in Subang Jaya, Selangor. Since he was doing pretty well in Indonesia then, he paid cash outright for the four units. LM Loo, a clerk in a lawyer's firm on the other hand could only afford the smallest unit - a studio apartment - in the same project. Today more than five years later, the project is only 70% complete and has been left abandoned since. Now there is talk of reviving the project but both Lim and Loo must pay an additional, quite hefty sum in order to see their properties completed and delivered to them.

Imagine their dilemma – don't pay the extra amount demanded and their initial heavy investments go down the drain, pay more from their already meagre savings and perhaps, just perhaps, they might be able to sell the condos and recover their investments. Lim who has since sold off his business and rejoined the employed state and Loo who has had to keep paying the bank loans despite not having her unit, are naturally enough, extremely sore over this miserable state of affairs. To them, the developer concerned appears to have gotten away with 'daylight robbery' while they are left to shoulder the burden and are still paying for their foolishness in picking this particular project to invest in.

The duo are part of the thousands of hapless property buyers who have found themselves unwitting victim of errant developers who have absconded or misused the funds meant for the project that they had contracted to buy. This situation is not uncommon and has been going on for some time primarily because of the lack of monitoring and strong enforcement on the part of the Housing Ministry but more pertinently, it is happening because of the ongoing practice of getting buyers to pay for a property purely on the conceptual basis also known simply as the sell then build (STB) concept.

Under this present method, developers offer 'visions' of what the property will be like upon completion and the buyer pays a deposit for that 'design' and then takes a loan which is disbursed progressively by the bank until the property is handed over to the buyer. Developers for the most part, have fulfilled their end of the bargain but a select minority renegade on the deal and scoot off leaving the buyers high and dry, while loans taken from banks still have to be repaid regardless of the real situation.

The Reasoning

The huge numbers of abandoned housing projects caused in part by the economic downturns or by the developers financial shortcomings has prompted the government to rethink the STB practice and opt instead for the build-then-sell (BTS) method. The benefits of the BTS is clear, buyers now get the chance to actually see the unit, spot the weaknesses and gauge the quality of the unit being offered for sale rather than betting on a fancy coloured brochure as is being done today. Needless to say, consumer groups and consumers are loud in their approval for this new practice to be implemented and made mandatory soonest possible

Developers, however, except for those who have already practiced it on their own accord, are vociferously not keen to have this practice scrapped for good. While they acknowledge that buyers tend to get the short end of the stick from errant developers, they feel it isn't fair to the rest who are not the black sheep and who will find it harder to go into property development if they don't have the funding from the buyers to cushion the costs. They cite the fact that the banks will have to fork out more in terms of bridge financing for each project and that will raise the interest rate costs for the developer concerned and the costs will then have to be transferred to the buyers in the form of higher house prices.

Consumer groups in turn say buyers may not mind paying a little more for that 'real estate property' rather than mere virtual promises. The Real Estate Housing Developers Association (REHDA) while recognizing the buyers' fears and concerned over its developer member's future suggested a reasonable compromise – allow the STB and the BTS to co-exist – so that both buyers and developers can enjoy the freedom of choice and alternatives.

... allow the STB and the BTS to co-exist, **REHDA**

It also proposed that the BTS concept be patterned after that of foreign countries such as Australia and UK where the 10:90 variant concept is successfully used. This concept allows for the buyer to still pay 10% of the sales price upfront to the developer and the balance 90% is held back by a lawyer until the handover of the property is done. This variant concept was recently given "approval in principal" by the government to co-exist but there are still many niggling issues to be tackled before the build-then-sell (BTS) 10:90 variant concept, can really take off.



What if they were sold only after completion?

The BTS itself will be subjected to a two-year review after the government recently gave an "approval in principal" for it to co-exist with the STB concept. To wean over the developers into adopting this new format, the government is offering incentives such as giving a waiver to the developers concerned in having to deposit RM200,000 with the Ministry of Housing and Local Government and an exemption on stamp duties. These developers will also be exempted from having to build low-cost housing.

Organisations such as REHDA and the National House Buyer's Association (HBA) while lauding the move when announced by Deputy Prime Minister Datuk Seri Najib Tun Razak, have expressed concerns that many niggling issues still need to be tackled before the build-then-sell (BTS) and the 10:90 variant concept, can really take off in Malaysia.

For a start, many developers are still very unclear about how this newly announced concept will actually work, how it will be implemented and how the incentives will be given, by the government itself. Kipark Industrial Park Sdn. Bhd. sales and marketing manager Sim Weng Keet for one said, "There are no clear guidelines yet. We are unsure how to go about it and will have to check with the Ministry of Housing and Local Government first. We will also have to consider the risks involved and the holding costs," he says.

For the new projects currently under the KIP Group of companies, he says, "We are unable to implement the BTS 10:90 variant as we need the cash flow. His frankness is understandable because under the BTS system, the risk of financing the project is borne by the developer and the end-financing bank. So far, the guidelines have not been clearly spelt out on how much financing will be offered by the bank for each project under the BTS model. The snag is the government has not mandated the financial institutions to loan developers participating in the BTS concept at highly favourable rates as an encouragement from the STB to the BTS concept.

Why not BTS?

- Developers feel it isn't fair
- Developers are required to subsidise construction of low or medium cost housing
- Developers must comply to national requirements
- Lack initiatives to include financial bodies
- Harder to go into property development without funding from the buyers
- Higher house prices between 30% and 100%.
- Possibly shrinking the construction industry
- Exemption from RM200,000 deposit is not attractive enough

Datuk Teo Chiang Kok, Malaysia Chapter president of FIABCI (the French acronym for International Real Estate Federation) voiced similar sentiments when he expressed his concern that banks have not been firm in their support of the BTS concept.

Teo, who is also the patron and past president of REHDA, pointed out that banks in other countries have been financing BTS projects where the concept was in practice. He called for a change in the mindset of the bankers and also called for a revamp of the Housing Development (Control & Licensing) Act 1966 which currently regulates the STB model as the general practice by the developers in Malaysia. The revamp must reflect the dual concept or developers might run afoul of the law.

REHDA immediate past president Jeffrey Ng believes that developers who borrowed from the banks to finance their projects under the BTS system are likely to pass the cost of the loan interest to the house buyers. As such, he warned that the BTS concept would not only cause house prices to increase by between 30% and 100% it could also possibly shrink the construction industry itself in terms of crimping the business activities and employment of this particular sector. Under the Eighth Malaysia Plan, some 844,043 houses were built over the period of 2001-2005 under the STB concept. Of this, 75% of the units were carried out by developers from the private sector. Under the Ninth Malaysia Plan, the target is to provide some 709,400 housing units within the next five years. Any adverse policy affecting the developers might boomerang on the construction industry itself to the detriment of the nation's aspirations of providing housing for the masses.

Hartamas Real Estate Sdn Bhd managing director Eric Lim anticipates supply of housing to be reduced during the initial implementation of the BTS system as not many developers would be able to undertake the holding costs. "As a result, they will build in lesser amount. If the developer cannot sell, who is going to hold the building costs?"

Meanwhile, the Association of Valuers & Property Consultants in Private Practice Malaysia president James Wong observed that much as the government is keen to implement the BTS concept, the market in Malaysia has not reached the level of maturity yet. He points out that the BTS concept as practiced in Australia,

these countries are much more matured than Malaysia.

"The majority of the developers here are not strong financially to implement the BTS," said Wong, who is also the managing director of VPC Alliance (Malaysia) Sdn. Bhd. The BTS 10:90 variant to be practiced in Malaysia is said to be patterned after the Australian system but what works there may not work here because in Australia, the developers are not hampered the way Malaysian developers are in that they do not have to subsidise the construction of low cost housing or comply with fulfilling national requirements such as meeting the bumiputera quota for housing for instance.

Meanwhile, SP Setia Bhd group managing director Tan Sri Liew Kee Sin sees the decision for the BTS system to coexist with the existing STB system as being the most prudent and necessary.

Change in the mindset of the bankers and revamp the Housing Development (Control and Licensing) Act 1966, urges Datuk Teo Chiang Kok, Malaysia Chapter president of FIABCI and past president of REHDA



Ng, BTS could possibly shrink the construction industry in terms of crimping the business activities and employment



Lim, they (developers) will build in lesser amount

Hope the relevant guidelines are issued soon, Tan Sri Liew Kee Sin, managing director of S P Setia Bhd

"Besides giving industry players and the banking sector time to assess the impact and adjust to the new system, he said it would provide buyers with a greater choice on whether they prefer to buy their properties under the old STB or new BTS system.

"The announcement that incentives will be given to developers who choose to adopt the new concept is also very good news and will certainly speed up the implementation of the BTS system."

"We hope the relevant guidelines will be issued soon and look forward to meeting the challenges of the new system in support of this far sighted move by the government to further advance the property development industry for the benefit of all participants."

Housing and Local Government Minister Datuk Seri Ong Ka Ting reportedly said that his ministry will propose that developers that adopt the BTS concept in areas with surplus or sufficient low cost houses, be given flexibility to build low-medium cost houses, which are in far greater demand.

The HBA meanwhile has expressed its doubts as to whether the various incentives offered would be attractive enough to entice developers to adopt the BTS 10:90 system. In a recent statement to the media, the association said it did not think that the exemption from having to deposit RM200,000 with the Ministry of Housing and Local Government would be very attractive to the big boys, especially since the money deposited is refundable anyway.

live up to the promise of fast tracking the approval process. Currently, the bureaucratic red tape takes anything from two to three years, beginning from the process of land conversion, layout design, building plans to the final sales and advertising permits before the developers can start to sell their products.

"Can the government truly make the improvements and ensure that the promised fast track is indeed fast? Does the Ministry of Housing Local Government possess the clout to influence the states' local councils to comply, especially when the matter is related to land?" These scepticisms are understandable because promises made by the Federal government may not necessarily be readily implemented on the state or ground level.

The HBA is also suggesting that an express lane be set up for approvals to be obtained within six months. The express lane should be manned by a special committee comprising representatives from the various professional bodies such as the Malaysian Institute of Architects, The Institution of Surveyors Malaysia with the HBA and REHDA acting as watchdogs to ensure smooth implementation of all government policies and to



Wong, the majority of developers are not strong financially to implement BTS



Sim, need the cash flow

Photographs by Anthony Tan

Why BTS?

- Freedom of choice and alternatives for buyers and developers
- The Prime Minister proposed the industry to adopt BTS in 2004
- Incentives for developers adopting BTS
- Incentives for financial institutions
- Top quality workmanship

It concedes that it might be an incentive to the smaller developers but the HBA itself pointed out that statistics revealed that the majority of the abandoned projects were committed by bigger rather than the smaller developers. As such, the association rationalised that the target of any incentives to adopt the 10:90 system should be aimed more at the bigger players.

It also pointed out that fast tracking the bureaucratic process for land conversion could be made more meaningful if the local government machineries in all the relevant states could

streamline the approvals processes. "This is to encourage transparency and accountability as well as ensure that the boldness to fast track the BTS is not derailed by certain quarters whether deliberately or otherwise."

...encourage transparency and accountability...to ensure boldness to fast track the BTS is not derailed

Then again, there is also that issue of will there be buyers once the units are completed? Developers are business people after all and at the end of the day, it is the bottom lines that count the most. The issue here is, what will happen if the development is complete and then no one buys it? Under the STB mode, developers proceed with the development only after they have managed to sell a certain percentage if not all of the units up for sale. The BTS leaves them in a quandary – if they build will the buyers snap up these units or will they be stuck with unsold units and paying for the holding costs while awaiting the buyers? Of course, under the BTS mode, developers will have to ensure top quality workmanship in order to win over the buyers thereby eliminating the worry of being stuck with unsold, completed units. Here again, good reputable developers need not fear the BTS because for many of them quality is already synonymous with their brand name but for those developers who have managed to get away with shoddy workmanship after getting the housebuyers' money, the buck obviously stops with the BTS mode.

What will happen if the development is complete and then no one buys it? Will they be stuck with unsold units and paying for the holding costs while awaiting the buyers?

Such fears are understandable because the issue of BTS has been a long discussed issue ever since the abandoned housing woes were brought to the light of public scrutiny. It received further impetus in 2004 when the Prime Minister himself proposed the industry adopt the BTS method to avoid a repeat of abandoned housing woes. The matter dragged on but in the interim period, the government setup a Tribunal for HomeBuyers' Claims which effectively assisted the consumers in getting their complaints attended to and redressed as well.

The current move by the government to introduce BTS in close co-existence with the tried and proven STB mode indicates its seriousness in rooting out the ills that has plagued the housing sector. However, strangely enough while the government has made great efforts to engage the developers and their relevant associations involved in the discussions, hardly any has been done to include the financial bodies that also play a key role in the success of this new move.



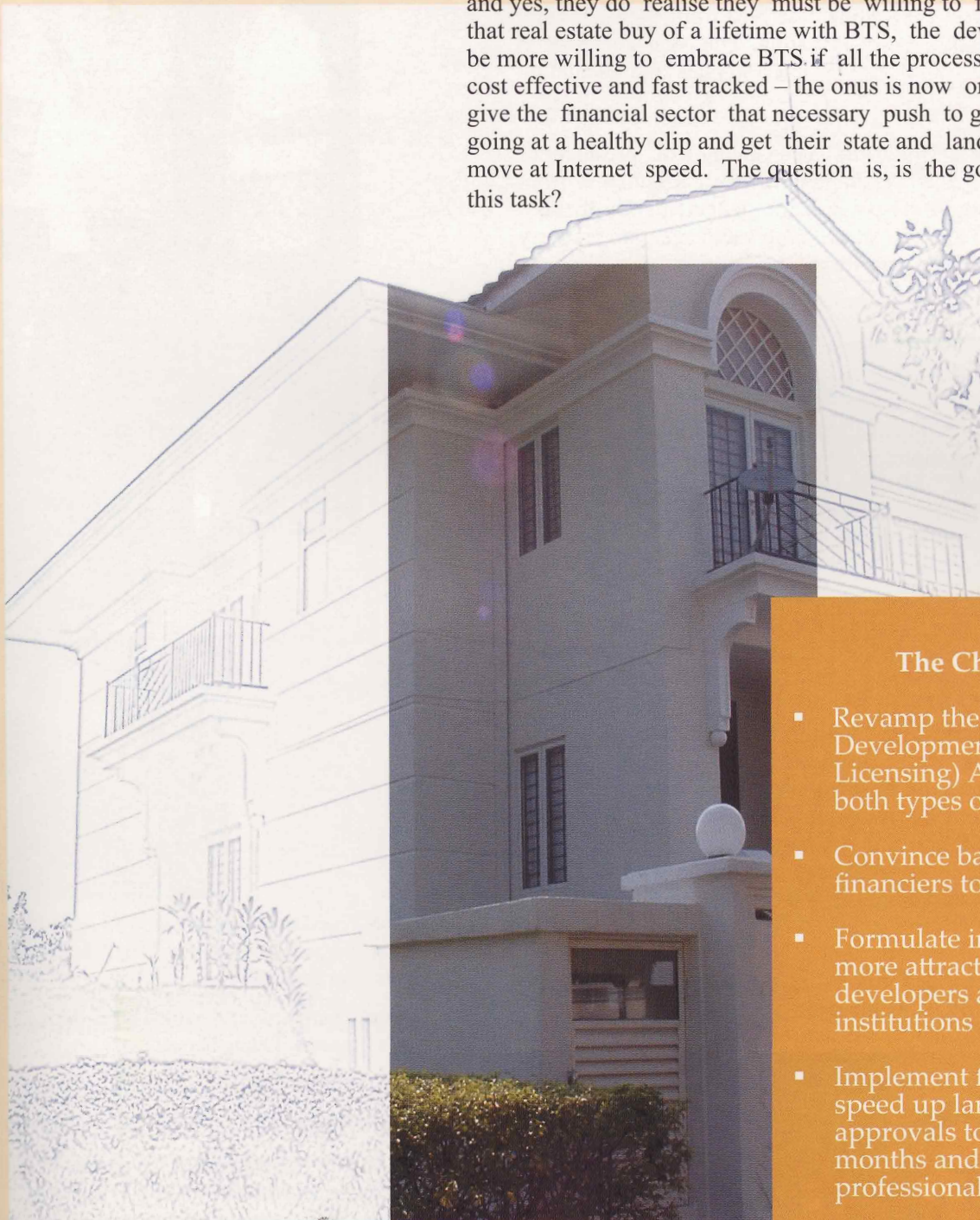
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With the funding risks transferred squarely on the shoulders of both the bank and the developer concerned, it is imperative that the financial institutions be persuaded to 'buy into' the new funding mode or the developers will find themselves between a rock and a hard place – forced to comply to the new ruling if BTS becomes the only method of home building yet having limited resources to achieve the national quota of housing the masses.

It is imperative that the financial institutions be persuaded to 'buy into' the new funding mode

Here the government's push for the BTS could also include offering irresistible incentives to the financial institutions in the form of tax breaks and extremely low cost funds to offer as bridging loans targeted specially to any and all BTS projects. Failure to consider and seriously act on this may well make the introduction of the BTS an exercise in futility and leave the end buyers back to square one.

The consumers have been waiting patiently for BTS to come on stream and yes, they do realise they must be willing to fork out a little extra for that real estate buy of a lifetime with BTS, the developers will assuredly be more willing to embrace BTS if all the processes are simplified, made cost effective and fast tracked – the onus is now on the government - to give the financial sector that necessary push to get the BTS momentum going at a healthy clip and get their state and land office counterparts to move at Internet speed. The question is, is the government itself up to this task?



The Challenge

- Revamp the Housing Development (Control and Licensing) Act 1966 to govern both types of development
- Convince bankers and financiers to support BTS
- Formulate incentives that are more attractive to entice developers and financial institutions
- Implement fast tracking to speed up land conversion approvals to within six months and manned by professional bodies
- To tackle other niggling issues surrounding BTS