

# The UAE Real Estate Market

## UAE

This month, *Lawyer Monthly* takes a look at the state of the Real Estate market in the UAE and the issues that potential investors should be aware of. To this end, we benefit from an exclusive piece from Shahram Safai, Partner at the Dubai office of law firm Afridi & Angell.

**W**hen Dubai burst onto the international real estate scene in the early-2000s, many investors viewed their purchases as short-term, and bought with the intention that they would be re-sold well before construction was complete.

Now that the first wave of construction has been completed, and mindful of the lessons of the global economic crisis, investors in Dubai's real estate market are generally more sophisticated and have grown ready to take a long-term view.

There is a growing awareness that Dubai's real estate market is becoming bifurcated, with high-end properties in good locations increasing in price and the lower quality properties stagnating in price.

This trend is partially due to low service charge recovery rates for the maintenance and management of common areas. Over time, this lower standard of maintenance could lead to a reduction in the lifespan of certain developments, and, consequently, in the value of the units in those investments.

The developments that tend to be the best maintained, are generally the high-end, high-value developments. Of course, these types of developments are more limited in number as compared to the less expensive projects, and this limited supply has also led to price increases in the expensive developments.

Due to the extremely hot weather in Dubai, a failure to maintain a development can lead to any construction defects becoming apparent sooner than would otherwise be the case. This reality is leading would-be investors to view the effectiveness of their potential investment's service charge regime as an important factor to consider. Similarly, existing investors whose developments may be impacted by construction issues are presently investigating their rights.

Dubai's Jointly Owned Property Law 27 of 2007 (the "JOP Law") provides for developer liability in various cases involving structural elements and defective installations. Notably, if there is conflict between a unit owner's purchase contract with the developer and the JOP Law, the JOP Law would supersede the contract in these cases.

In addition, depending on the wording of the construction contract between the developer and the contractor, an association of owners and the unit owners may be able to argue they are entitled to take direct action against the contractor who built the development for breaches of the contractor's obligations under the construction contract.

Similarly, under the Federal Civil Code, the developer has a claim against the contractor and the supervising architect in certain cases.

One legacy of the global crisis is that most investors are limiting their sights on completed projects with many also seeking to take advantage of so-called "distressed sales".

At present, many commentators view the regulation of off-plan property sales in Dubai as being too developer-friendly. The Dubai Government has published a draft Investor Protection Law (the "Investor Law"), which could see a strengthening of the position of investors by providing them with various rights and protections.

The introduction of the Investor Law would indicate a shift in power towards investors in Dubai's real estate market, thereby making investment in off-plan property more attractive which could, in turn, result in price increases across the board. **LM**

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