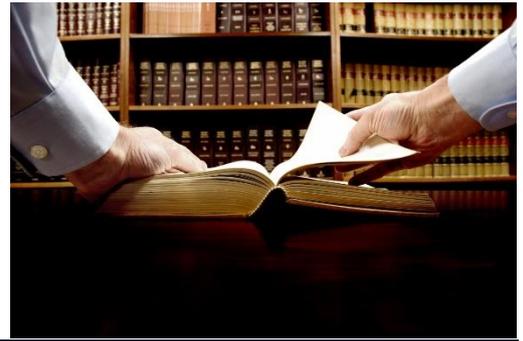


inBrief

**Off-Plan Real Estate: Risks and Rewards**

By Shahram Safai, Alex Vromans and Zaid Mahomed | 7 September 2023

Dubai's real estate market has experienced significant growth in prices in the past few years. The average sales prices for residential properties in Dubai increased by 12% between 2021 and 2022 to reach AED 1,203 per sq ft. This is expected to increase even more by the end of 2023. In this market, off-plan properties appear to be a more affordable option to many purchasers as compared to completed properties. For the end user, low first payments and attractive payment plans mean affordability. This has been an important factor in boosting the off-plan market in Dubai over the past few years.

However, it is critical that prospective buyers do their homework; conduct due diligence; engage a reputable lawyer who understands the off-plan market in Dubai and can protect their rights; and ensure that they purchase a quality off-plan investment.

While the Dubai Land Department (DLD) recorded 14,712 off-plan sales in Q2 2023, memories of the 2008/2009 market crash still loom large. As a result, it is important to be aware of applicable real estate laws.

Legal Protection

Off-plan real estate investment in Dubai is governed by a set of real estate laws and regulations aimed at protecting buyers' interest, the most important of which are discussed below.

The Interim Registration law (Law 13 of 2008 (as amended)) requires all sales (and all other disposals) of off-plan units to be registered on the interim real estate register maintained by the DLD. If a sale is not registered, it is considered null and void.

The Interim Registration law also governs the developer's right to terminate a sale contract for an off-plan unit in the event that the buyer defaults, and sets out (i) the termination procedure to be followed; and (ii) the monies that may be retained by the developer in the event of termination which is linked to the percentage of completion of the off-plan unit as follows:

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- if the percentage of completion of the unit exceeds 80%, the developer may retain up to 40% of the price of the unit specified in the off-plan sale contract;
- if the percentage of completion of the unit is between 60% and 80%, the developer may retain up to 40% of the price of the unit specified in the off-plan sale contract;
- if the developer has commenced construction work on the project pursuant to the designs approved by the competent authorities and the percentage of completion of the real estate unit is less than 60%, the developer may retain up to 25% of the price of the real estate unit specified in the off-plan sale contract; and
- if the developer has not commenced the execution of the project for reasons beyond his control and without negligence on his part, the developer must refund all purchase price amounts paid by the buyer.

Furthermore, the Trust Account law (Law 8 of 2007) protects buyers by requiring developers selling off-plan units to be registered with the Real Estate Regulatory Agency (RERA), and to deposit all amounts paid by purchasers into an escrow account with an escrow agent (bank) accredited by the DLD. The amounts deposited in the escrow account are exclusively allocated for the purposes related to the development of the particular real estate project (and directly related activities) and may only be withdrawn by the developer on application to RERA in accordance with the law.

Although off-plan buyers can take comfort in the protections afforded by the legislation described above, we recommend that purchasers check that:

- the real estate project is registered with RERA;
- there is an escrow account for the real estate project;
- the percentage of completion of the real estate project and the expected date of completion;
- the developer is registered with RERA;
- the developer owns the land or there is a development agreement between the owner and the developer; and
- the developer has the required permits and approvals from the DLD and RERA to sell units off-plan in that particular real estate project.



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Dubai on the Rise

Dubai's off-plan real estate laws and regulations serve to increase investor confidence and attract more foreign investment.

With respect to the market, there are attractive deals to be had from developers in Dubai today and off-plan enquiries remain high. However, today's off-plan buyers should shop around and choose a quality product that will deliver long term sustainable returns, or provide a stable, affordable home.

Dubai remains a very attractive proposition for domestic and international investors alike with globally high rental yields and reasonable prices per square foot. Dubai itself continues to attract hard working and entrepreneurial people from across the world and the prospects of the market are very bright as more people choose to settle and live in the UAE. There is much to be positive about regarding the future of the Dubai property market and the off-plan sector will continue to play a big role in such market. ■

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