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**Real Estate Dispute: Dubai Court of Cassation Clarifies Conditional Contracts and Manager Liability**

By Mevan Bandara and Noran Al Mekhlafi | 23 October 2025

The Dubai Court of Cassation (DCC) recently issued an important judgment in a real estate dispute, providing clarity on two key legal issues: **the effect of suspensive conditions in conditional contracts** and the **personal liability of managers of limited liability companies (LLCs)** in cases of fraud or misconduct.

Afridi & Angell acted for the buyer in this case.

Facts

- The buyer entered into a sale and purchase agreement (SPA) with a Dubai-based LLC (the seller) to purchase an off-plan property in the secondary market.
- The terms of the SPA required the buyer to pay nearly half the purchase price as a deposit, and the balance to be paid after the developer hands over the property.
- The contract contained additional terms – departing from the standard conditions of the Dubai Real Estate Regulatory Authority (RERA) – allowing the seller to encash the deposit cheques before completion. At the seller's request, the cheques were addressed in the name of the manager of the seller entity (who was also the sole shareholder).
- The developer failed to hand over the property on time. While the buyer remained willing to proceed, the seller withdrew from the transaction and refused to return the deposit paid. Relying on the additional terms, the seller argued it was entitled to withdraw from the transaction and retain the deposit because the buyer was in breach of the contractual payment deadline.
- The buyer filed a claim against the seller and its manager, while the seller counterclaimed for damages.

Court FindingsConditional Contracts

- The court found that completion of the sale was made conditional upon the developer's handover of the project by a certain date. The court agreed with the buyer's argument that this condition was a 'suspensive condition', and since it was not fulfilled within the contractual deadline, the seller was ordered to return the deposit to the buyer with interest.

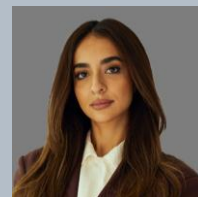
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- In appeal, the seller argued that in the context of an off-plan sale of property, delivery or handover of the project does not mean “actual” delivery of the property by the developer, but rather “constructive” delivery (i.e., transfer of title), which meant that the seller was ready to transfer the title to the buyer at all times. The DCC dismissed this ground and confirmed that pursuant to Articles 420 and 425 of the Civil Code, a conditional obligation is one that depends on the occurrence of a future or uncertain event, upon the happening of which, an obligation will either arise or cease. Where the obligation is subject to a suspending condition, it remains unenforceable until the relevant condition materialises or is fulfilled.
- On that basis, the DCC upheld the finding that the obligations of both parties (buyer to pay the balance and seller to transfer title) fell away as the suspending condition did not occur (i.e., handover of the project by the developer) without attributing a breach to either party. Accordingly, the lower court’s finding was upheld insofar as the deposit ought to be repaid to the buyer with interest. In this respect, the DCC opined that:

“A conditional obligation is one that depends upon a future and uncertain event, upon which the obligation either arises or is extinguished. If the condition is suspensive, it has the effect of suspending the enforceability of the obligation until the occurrence of that event upon which it depends.”
- The DCC held that the suspensive condition in the SPA has the effect of suspending “the enforceability of the plaintiffs’ obligation to pay the balance of the price until the occurrence of the event upon which it depends, namely the developer’s handover of the unit to the seller. The obligation to pay the balance of the price is deemed to exist during the suspension period but remains unenforceable, as it becomes operative only upon the occurrence of the condition.”

Liability of Manager

- The buyer sought to hold the seller’s manager personally liable on the basis of fraudulent conduct. The court upheld the buyer’s claim, finding that the manager had acted fraudulently by:
 - depositing the buyer’s funds into his personal account,
 - cancelling the seller entity’s trade license and concealing its liquidation during the court proceedings, and
 - selling the property to a third party.
- The DCC confirmed that managers of an LLC are not personally liable for the company’s debts, except where fraudulent conduct, deceit, or bad faith is established. On the facts of this case, the DCC found that the manager had acted fraudulently and accordingly upheld the finding of personal liability.

Key Takeaways

- **Suspensive conditions:** This case illustrates the Dubai Courts’ approach to the interpretation of conditional contracts and obligations, ensuring that where a suspensive condition is not fulfilled, contracting parties are restored to their original positions. Where a contract is tied to a future event (e.g., project handover), and the event does not occur within the contractual deadline, the contract terminates automatically and any payments made must be returned.
- **Manager liability:** The judgment underscores the courts’ readiness to hold managers personally liable where fraud or misconduct is established. The DCC reaffirmed that, in exceptional cases, company managers can be held personally liable if they act dishonestly or misuse their position. ■

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