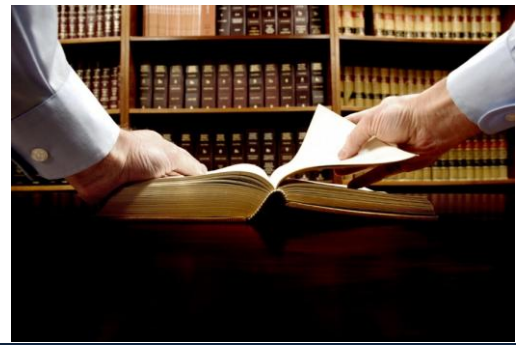


## inBrief

**Termination of Off-Plan Real Estate Sale Agreements in Dubai**

By Shahram Safai, Nazim Hashim and Doneen Ennis | 30 September 2026

**Introduction**

In the present economic climate, terminating off-plan real estate sale agreements in Dubai is a prominent issue. The procedure and remedies differ significantly depending on whether termination is sought by a developer following a purchaser's default, or by a purchaser following a developer's default, including delay in completion.

**Governing Legislation:**

- **Dubai Law No. 13 of 2008** (amended by Law No. 19 of 2017 and Law No. 19 of 2020).
- **Federal Decree-Law No. 25 of 2025** (Civil Transactions Law, effective 1 June 2026).
- **Federal Law No. 5 of 1985** (Civil Code, applies to transactions prior to 1 June 2026).

**1. Termination by Developer for Purchaser Non-Payment****Statutory Basis & Mandatory Procedure**

A developer cannot immediately terminate a sale and purchase agreement (SPA) upon purchaser default, which is usually non-payment of a due instalment. A developer must strictly follow the procedures mandated by Article 11(a) of Law No. 13 of 2008, as amended:

- a) **DLD Notification:** Notify the Dubai Land Department (DLD) of the default.
- b) **Statutory 30-Day Notice:** DLD serves a 30-day notice to the purchaser to remedy the breach or reach an amicable settlement.
- c) **Compliance Document:** If the 30-day notice period expires without the breach being remedied, DLD issues an official document confirming procedural compliance and project completion percentage.
- d) **Unilateral Action:** The developer may then terminate the SPA of its own accord without needing a court ruling or arbitration award.

**Amounts Retainable by Developer Upon Termination**

The project completion percentage determines the developer's financial remedies under Article 11(a)(4):

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| Project Completion Status                                             | Allowable Developer Financial Remedies & Options                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| More than 80% Complete                                                | <p><b>Option A:</b> Maintain the SPA, retain all paid amounts, and claim the remaining balance.</p> <p><b>Option B:</b> Request the DLD to sell the unit via public auction to collect outstanding amounts.</p> <p><b>Option C:</b> Terminate the SPA, <b>retain up to 40% of the purchase price</b>, and <b>refund the excess within one year (or 60 days of resale)</b>.</p> |
| Between 60% and 80% Complete                                          | Terminate the SPA, <b>retain up to 40% of the purchase price</b> , and <b>refund the excess within one year (or 60 days of resale)</b> .                                                                                                                                                                                                                                       |
| Less than 60% Complete                                                | Terminate the SPA, <b>retain up to 25% of the purchase price</b> , and <b>refund the excess within one year (or 60 days of resale)</b> .                                                                                                                                                                                                                                       |
| <b>Construction Not Commenced</b> ( <i>Beyond developer control</i> ) | Where non-commencement is not due to the developer's negligence or omission, <b>terminate the SPA and return all purchase monies to the purchaser</b> .                                                                                                                                                                                                                        |

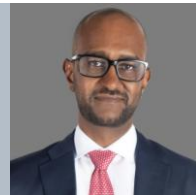
## 2. Termination by Purchaser for Developer Default

### Default – Developer Delay in Completion

A purchaser's rights where the developer delays completion of the unit arise under the SPA, general contractual principles, and the applicable Civil Transactions Law. For SPAs governed by Federal Decree-Law No. 25 of 2025, Article 234 permits a purchaser, following notice, to seek performance or rescission where the developer fails to perform its obligation when due, together with damages where appropriate. For transactions governed by Federal Law No. 5 of 1985, the corresponding principles are set out in Article 272 of the former Civil Code. The applicable law should be determined having regard to the transitional provisions of the 2025 Civil Transactions Law, which came into force on 1 June 2026.

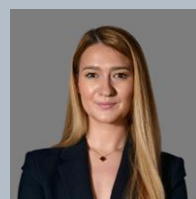
### Materiality & Legally Excused Delays

Not all delays entitle a purchaser to terminate. Whether a delay justifies rescission will depend on the terms of the SPA and the circumstances of the case, including the extent and materiality of the delay, any contractual completion date, extension or grace period, any legally recognized justification for the delay, and whether the breach is sufficiently significant to warrant rescission.



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Doneen is a real estate associate based in Dubai. Her expertise encompasses a wide range of areas and she excels in skilfully navigating intricate corporate and property landscapes. Her notable experience includes advising on large real estate investment sales and purchases, conducting corporate real estate due diligence reports for a large international hotel group, and preparing high-level due diligence reports for financing matters related to real estate assets. Doneen is also part of the tax team, advising clients in relation to corporate tax matters within the UAE.

In particular, a purchaser's right to rescind for delay may be displaced or qualified in the following circumstances:

- **Force Majeure:** Under Article 236(1) of the 2025 Civil Transactions Law, true force majeure terminates the contract by operation of law. Mere increased cost, inconvenience or difficulty in performance will not generally amount to force majeure. Whether a particular event constitutes force majeure will depend on the circumstances, including whether the event was beyond the affected party's control and whether it actually rendered the relevant contractual obligation impossible. However, it requires absolute impossibility of performance (e.g., severe regulatory blocks, infrastructure failures), not just increased costs or difficulties. The burden of proving the force majeure event, and the absence of any fault on its part, lies with the developer.
- **Grace Periods:** Contractual extensions and grace periods in SPAs will generally be relevant and enforceable according to their terms. However, where an SPA constitutes a contract of adhesion (i.e. standardised, pre-written agreement), a court may modify an unfair term, or relieve the adhering party from it, where justice so requires, including potentially an unfair extension provision. This power arises under Article 248 of the 1985 Civil Code and Article 223 of the 2025 Civil Transactions Law, as applicable. Similarly, where an SPA provides for agreed compensation for delay, the amount may be subject to judicial review. Under Article 390 of the 1985 Civil Code, the court may, at the request of either party, adjust the agreed compensation so that it corresponds to the actual loss suffered. Under Article 340 of the 2025 Civil Transactions Law, the court's power to adjust agreed compensation is subject to the specific grounds set out in that provision, including whether the amount is excessive, the principal obligation has been partly performed, or the creditor has contributed to the loss.
- **Project Cancellation:** The Real Estate Regulatory Agency (RERA) may cancel a project via a reasoned decision, under Dubai Law No. 8 of 2007 concerning Escrow Accounts for Real Estate Development. In that case, the purchaser's position will generally be governed by the refund and liquidation framework applicable to cancelled projects, including the developer's obligation to refund amounts paid, rather than by a contractual claim for rescission.

#### Other Permitted Grounds for Purchaser Termination

Under Article 20 of the Implementing Regulation of Law No. 13 of 2008, issued by Executive Council Resolution No. 6 of 2010, purchasers can apply to courts to terminate if the developer:

- Refuses to deliver the final SPA without a DLD-accepted reason.
- Declines to settle payments according to RERA construction milestones.
- Makes material changes to agreed unit specifications.
- Delivers a unit unfit for use due to material construction defects.
- Commits any other breach that justifies termination under the law.

#### Conclusion

Overall, Dubai law strikes a careful balance between the rights of developers and purchasers.

A developer may terminate an SPA for purchaser default without a court order, but only after completing the DLD notification and 30-day notice procedure under Article 11 of Law No. 13 of 2008. The amount it may then retain depends on the stage of completion: up to 25% of the purchase price where the project is less than 60% complete, and up to 40% where it is 60% complete or more, with the further options of enforcing the SPA or seeking a public auction once completion exceeds 80%. Where construction has not commenced for reasons beyond the developer's control, all amounts paid must be refunded.

A purchaser seeking to terminate for developer delay or other non-performance must rely on the SPA, Article 234 of the 2025 Civil Transactions Law or Article 272 of the former Civil Code (as applicable), and the grounds set out in Article 20 of Executive Council Resolution No. 6 of 2010. The delay must be material, unjustified and outside any contractual grace period. Force majeure will excuse a delay only where performance has become genuinely impossible through no fault of the developer; increased cost or difficulty is not enough. Where RERA cancels a project, the developer must refund all purchaser payments under Dubai Law No. 8 of 2007.

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Afridi & Angell advises and represents purchasers, investors, sellers, developers, brokers and others with respect to real estate and construction-related termination matters. Please feel free to contact us. ■

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