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Temporary Measures Bill a fair move, experts say

Neither property developers nor buyers should be penalised for the delay caused during the pandemic

by FARA AISYAH

PROPERTY industry experts believe it is fair for the government to propose the Temporary Measures Bill that will prevent developers and buyers from taking legal actions against each other due to the Movement Control Order (MCO).

The bill, which is expected to be tabled in the Dewan Rakyat in the middle of July, is formulated due to the impact of Covid-19,

particularly the MCO.

Teh Kim Teh, Salina & Co senior partner Datuk Dr Teh Tai Yong said it is a fair position as neither party should be penalised for the delay caused by the MCO during Covid-19 pandemic.

"Basically, it temporarily freezes both parties' contractual obligations during the MCO. If a project's handover is delayed due to the MCO, the developer should not pay the liquidated damages.

"Likewise, if a purchaser's payment to the developer is delayed during the MCO, he should not pay the late payment interest," he told *The Malaysian Reserve*.

However, Teh said, the law must

be clear by stating how long the duration will be for such "temporary relief" due to the different stages of movement restrictions, including the MCO since March 18, Conditional MCO since May 4 and Recovery MCO since June 10, 2020.

Housing and Local Government Minister Zuraida Kamaruddin recently said the ministry had received 700 to 800 applications from developers to extend their completion periods, which had been interrupted for three months due to the MCO.

Institute for Democracy and Economic Affairs senior fellow and Centre for Market Education director Dr Carmelo Ferlito said the

proposed bill makes sense.

"It would be difficult to discern which projects would have been delayed anyhow without the MCO, while it is very clear that the general lockdown put all economic activities under stress.

This is all the more true for the construction sector, where further elements of difficulty are introduced with the recent policies on migrant workers.

"Now that businesses are slowly going back to normal, it is important for the developers to agree with the authorities on the new deadline and to communicate it to homebuyers," he said.

He added that for those buyers

who are already financially committed to a project, it would be good to imagine a discussion between banks, developers and buyers in order to harmonise the eventual construction period extension and the loan moratorium for the buyer.

"Certainly, this unprecedented moment required all parties in any commercial contracts to adopt higher degree of tolerance for delay beyond expectations, which is akin to the force majeure clause," CBRE-WTW group MD Foo Gee Jen said.

"This will be able to avoid unnecessary time and financial losses if a party starts to initiate a legal suit for the delay due to this pandemic," he added.