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JAWATANKUASA PEGUAM PULAU PINANG PENANG BAR COMMITTEE

CPC 15/22

21 June 2022

To Members of the Penang Bar,

Court Order for Disposal of Estate Property by an Executor

The Conveyancing Practice Subcommittee of the Penang Bar issued an email to the Office of Lands and Mines, Penang ("PTG Penang") to address the issue of whether an executor of an estate is required to obtain a court order before the disposal of any property of deceased is made.

Members are requested to take note of the feedback from the Chief Assistant Director of the Land Title Registration Unit, PTG Penang, Puan Azlina Baizura Binti Abu Bakar Tajudin as follows:

This matter has been referred to the Office of the State Legal Advisor. The following are the views and conclusions that have been given:

In accordance with the legal view provided by the Attorney General's Chambers dated 10 Feb 2020 which after referring to the case of **Lee Ah Ngan & Anor v Lee Know [1995] 2CLJ 51** and section 60 (3) of the **Probate and Administration Act 1959 [Act 97]**, The Attorney General's Chambers is of the following view:

"Based on subsection **60 (3) of Act 97** and the case, **the executor is given absolute authority to dispose of the deceased's property at his discretion without having to obtain a court order** before the disposal is made, **subject to any restrictions imposed** by the deceased in his will. However, a court order must be obtained before the executor can dispose of the deceased's property if there are restrictions stated in the will."

Members are further advised to refer to PTG Penang's website or Facebook page regularly for the latest information and updates.

Members will be updated further as and when we receive additional information from PTG Penang.

Thank you.

Mohamad Redzuan bin Idrus
Chairman
Conveyancing Practice Subcommittee