

**ADEQUACY OF CONTRACT PROVISION IN MANAGING
CONSTRUCTION FAILURE**

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CONSTRUCTION FAILURE**

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A project report submitted in partial fulfillment of the
requirements for the award of the degree of
Master of Science (Construction Management)

Faculty of Civil Engineering
Universiti Teknologi Malaysia

DECEMBER, 2010

DEDICATION

To my beloved parents Che Kamaruddin Che Hassan and Nik Hasnah Ibrahim, my siblings Naadiya, Naadilla, Naadifarin, Naadifan, Madeleyn, Nur Qamarina, Qariz Danial and Qurnia Danish.

Not forgetting, my late younger brother Allahyarham Mardief
(20 July 1996-15 May 2009).

To my love , Mohd Hanafi Bin Abdul Rashid
and to all my friends.

Thank you for the supports, encouragement, wishes, sacrifice & patience.
May Allah S.W.T shower us with His blessing.

ACKNOWLEDGEMENT

Firstly, I am grateful to Allah S.W.T after a year of hard working and finally with His will, this master's project is completed. Thanks to Allah S.W.T for giving me strength to complete this project and the strength to keep on living.

I wish to express my higher gratitude to my project supervisor, Assc. Prof. Dr. Mohamad Ibrahim Mohamad for his efforts, encouragement and guidance. In preparing this project report, I was in contact with many industry practitioners. They have helped me a lot in answering my interviews and questionnaire surveys. Their useful information really assisted me to complete the data sourcing. I am very thankful to them.

Not forgetting to my fellow friends who have helped, supported and shared a lot of information regarding to this study with me. Without their assistance, I might not be able to accomplish this study. I appreciated all their support and encouragement.

ABSTRACT

In managing construction failure, normally efforts are made to identify the possible cause of failure and seek for the possible solution of the problems faced. Currently, there is no clear guideline available either within existing contract documents or legislations that can be used as a guide to resolve construction failure cases. Hence, this study has been undertaken to identify the limitations of current contract provisions which related to construction failure. It is conducted to evaluate the adequacy of contractual provisions in contract documents. The methodology adopted for this study includes literature research, interviews and questionnaire surveys with selected professionals in construction industry and legal sector. The findings of the study show that the limitations in current contractual provisions are eminent. It is also found that there is a need for consideration of inclusion of new provisions to be implemented into contract document. Despite there may be a difference of ideas between the respondents from construction industry and legal sector regarding to limitations of law and contract to solve construction failure cases. This study also made some proposal of important items that should be considered for improving current contract provisions.

ABSTRAK

Dalam menguruskan kegagalan pembinaan, lazimnya terdapat usaha-usaha yang dilakukan untuk mengenalpasti punca kegagalan dan mencari penyelesaian yang sesuai bagi masalah yang dihadapi. Pada masa kini, tiada garis panduan yang jelas boleh didapati sama ada melalui dokumen kontrak sedia ada mahupun dari segi perundangan yang boleh dijadikan sebagai panduan dalam menyelesaikan kes-kes kegagalan pembinaan. Justeru itu, kajian ini telah dijalankan untuk mengenalpasti kekangan yang terdapat dalam peruntukan kontrak pada masa kini yang mempunyai kaitan dengan kegagalan pembinaan. Ia dijalankan untuk menilai tahap kecukupan pada peruntukan kontrak yang terdapat dalam dokumen kontrak. Kaedah yang digunakan dalam kajian ini merangkumi kajian literatur, temubual dan kaji selidik dengan golongan profesional daripada industri pembinaan dan sektor perundangan. Hasil daripada kajian ini menunjukkan bahawa kekangan yang terdapat dalam peruntukan kontrak merupakan punca utama kepada permasalahan ini. Selain itu juga, terdapat keperluan untuk memasukkan peruntukan baru ke dalam dokumen kontrak. Walaubagaimanapun, terdapat perbezaan pendapat di antara responden daripada industri pembinaan dan sektor perundangan terhadap kekangan tersebut. Melalui penyelidikan ini, beberapa cadangan yang penting telah dikemukakan dengan tujuan untuk memperbaiki kelemahan yang terdapat dalam peruntukan kontrak pada masa sekarang.