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Is it the developer, the contractor, the local council or the house-owner?

Saturday, 15 November 2014

By: [CHANG KIM LOONG](#)



Who is responsible for slope management? Does the responsibility come with the property bought by the purchaser?

THE collapse of a slope deep in the jungle does not concern house-owners, nor do landslides along our highways or roads. They just cause a bit of inconvenience to road users.

The Government deploys men, machinery and money to get the road cleared as quickly as possible so traffic can flow again.

It is different with the slope, which is (usually) at the back of a house. The house-owner did not build it. It came when he bought the house, designed by the developer with the approval of the local council. Because it is in his compound – or because he will be affected by it in the event of a collapse – the house-owner is responsible.

But in reality, is it as simple as that? It is more than a matter of money, it may also involve lives.

The Construction Industry Development Board (CIDB) in collaboration with the Urban Wellbeing, Housing and Local Government Ministry organised a seminar some months ago. Tan Sri Ramon Navaratnam, adviser to SlopeWatch, a community-based organisation, highlighted his personal and distressing experience with the slope in his house

compound. He needed to have it repaired and he was driven from pillar to post by government officers, the contractor was dilatory and the cost was high.

But who is responsible?

House-purchaser dilemma

When a house-purchaser takes his house from the developer, the latter does not certify that the slope is safe in terms of design, and “as built”, except that it is understood to have been approved.

Victim: “It had been built at the bottom of a nearly-vertical slope formed by excising the toe of a hill. Though he had no need for it, the developer would not sell the house without a part of the bottom of the slope; not only did it add to the cost of the house, it made him responsible for the upkeep of the slope.

As expected the slope collapsed, not once but twice. You see the rubble-wall collapsed with the soil when the pressure became too strong. This time, a strong wall was built together with weep holes to remove rain water that seeped into the soil so that it did not become too heavy. It held up for us but the same slope running into the neighbour’s side, collapsed.

“Are they lucky compared with the buyers of houses built on top of Bukit Setiawangsa, while they were at the bottom of the slope? The developer had apparently removed the earth from it to form the bed of the highway, the Duta-Ulu Kelang Expressway (Duke). With the entire slope removed, the houses are perched precariously at the top, as the cliché goes, like a disaster waiting to happen.

So who is responsible? Is it the developer? Where will he be after six years or if available, will he argue that the purchaser bought the house fully aware of the risks? What are the rights of a subsequent owner? Does he has any recourse against the first owner? What about the local council and professionals who approved the slope – which to an untrained eye – seems to be an unsafe construction?”

House-owners are not only innocent victims of a developer’s recklessness or the developer’s appointed professionals, be it an architect or engineer.

They may also be liable through no fault of theirs because of the way developers have disturbed the lie of the land and left it in an unsafe state for the house-owner to take care of it.

The most enduring memory is the Highland Towers episode about 20 years ago, of which there is still no satisfactory closure. The disaster should have been a wake-up call on the process of approvals and accountability.

Only a draughtsman was convicted for the design of the drainage which caused water to flow un-channelled into the ground under the condominiums causing it to turn into mud which, of course, flowed against the piles causing them to move and knocking the building off its supports. The Ampang Municipal Council (MPAJ), which approved the diversion of the drainage, was excused because of the statutory immunity it enjoyed under the law.

So, should it be more careful and conscientious? Have we not learned the right lessons from it?

There are many questions for which there are no answers.

Slope management – overcoming challenges

The question with regard to slope management brings to mind a slope management seminar held earlier this year which attracted about 400 participants. The speakers held top posts in the Public Works Department, Urban WellBeing, Housing and Local Government Ministry, SlopeWatch, head of hillslope development in MPAJ and geotechnical engineer Datuk Dr Gue See Sew. Participants attentively asked the panelists pertinent questions.

As we forge ahead, we ask ourselves, have we done enough? If not, what can we do more? What are some of the issues and challenges we are facing as residents, owners, consultants, planners, financiers and enforcers of the guidelines, managers of slopes and public safety?

And whose responsibility is it anyway? There were proposals, suggestions and recommendations for an action plan that will be adopted for its intended implementation. Some were for immediate application, while some were medium and long term in nature. Unanimous resolutions were made at the end of the seminar.

Resolutions

Some of the pertinent resolutions were:

> Improve and simplify the current guidelines on hill-site development with safety enhancement.

- > Increase awareness of contractors on good slope construction practices
- > Strengthen the enforcement of authorities to penalise errant slope owners
- > Review the planning policies and determine the height and density of buildings to blend with the environment
- > To immediately do an inventory and to gazette all remaining hill-slopes, including those that are still on state land under the Land Conservation Act, National Land Code and the Town and Country Planning Act.
- > Review slope-related designs not only confined within the boundaries of the project, but within the surrounding areas.
- > Make it compulsory under the law for a geotechnical accredited checker, as an independent checker, to check and verify that slope design and construction are safe and done to the best engineering practices.
- > Major earthworks and slope strengthening need to be done first before construction of any buildings and structures in the development takes place
- > Local authorities to collaborate with community monitoring groups (to be the eyes and ears)
- > To make it compulsory for slope owners to appoint professional engineers to inspect slopes on a regular basis on high-risk slopes and to rectify any defects for slopes of certain categories
- > New engineered slopes to have a maintenance schedule and manual, including drainage systems. Old slopes, in particular, should be under a maintenance programme by the local authorities
- > Introduce a fund to cover long-term infrastructure maintenance of certain slopes that require high maintenance and are handed over to local authorities

But the most important of them is to set up a centralised body to support the 154 local authorities on new hillside developments. It should be modelled after the geotechnical engineering office in Hong Kong.

The Government and public will be hearing more of this proposed “centralised body” in due course from the Expert Standing Committee on Slope Safety initiated under CIDB.

Chang Kim Loong is the honorary secretary-general of the National House Buyers Association.

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Updated: 28 Nov 2014 | 10:05 AM

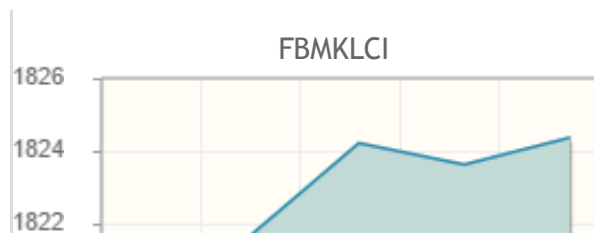
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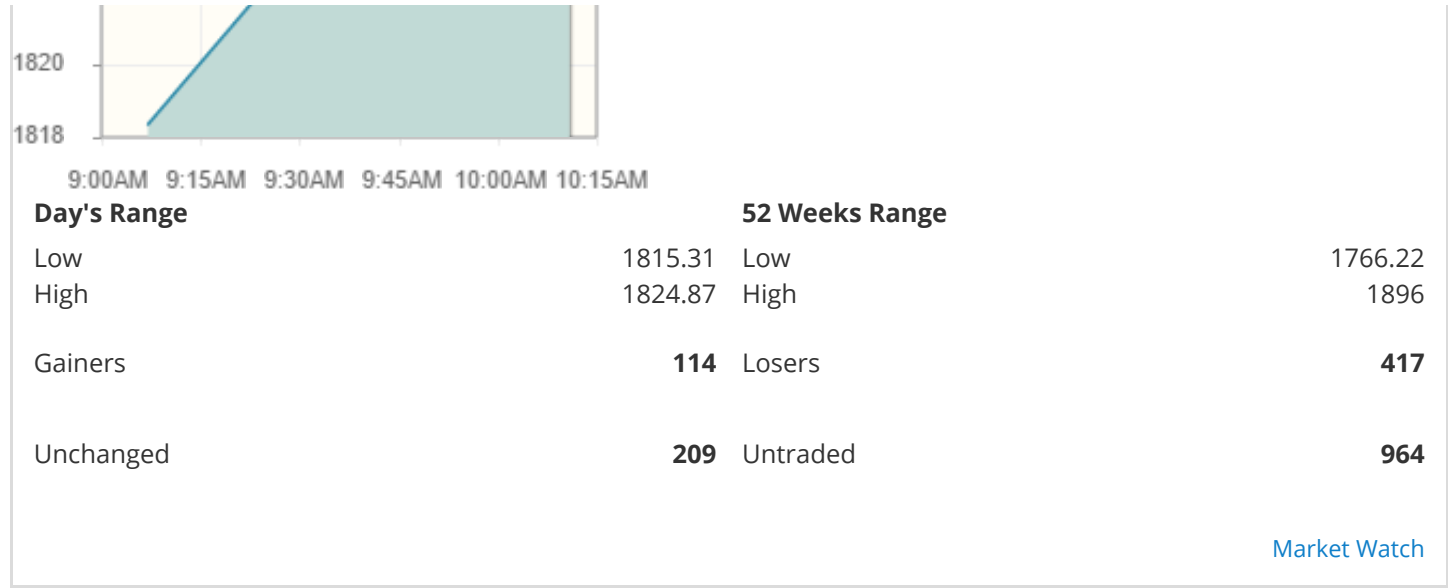
FBM KLCI

1824.36 -5.55 -0.3%

Vol ('00)

4,708,941





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SUMATEC	0.255	-0.010	212,225
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ARMADA	1.180	-0.100	184,575
EDUSPEC	0.300	0.015	167,942

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