

Förhandsavtal vid bostadsrättsupplåtelse

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ISRN LUTVDG/TVLM 07/5151 SE

Summary

This thesis managed future sales of tenant-ownership. Future sales of tenant-ownership became allowed in the 1991 law of tenant-ownership. The rules are in the fifth chapter. A future sale of tenant-ownership means that a tenant-owner association can form a contract that grants a tenant-ownership in the future. The tenant-owner association becomes bound to grant the tenant-ownership to the future buyer, who becomes bound to acquire the tenant-ownership. The tenant-owner association may receive down payment if they have a cost estimate and security corresponding the payments. A problem that weakens the consumer protection in the law of tenant-ownership is that a raise of the charges for the tenant-ownership can be split into two parts, one before the grant and one after. Since the tenant-owner has the right to break the contract if a charge becomes essentially higher than said in the contract of future sale of tenant-ownership, this rule will now become difficult to use. Another problem is that the official contracts of future sales of tenant-ownership is not always used, but instead are booking or reservation contracts used. These contracts are usually established earlier than the future sales of tenant-ownership and since they are not regulated in the law of tenant-ownership, they are indistinct for the buyer. A further problem is that it is difficult to stop the contracts of future sale of tenant-ownership from being sold or transferred. The law of tenant-ownership says that a transfer of the contract is forbidden, but this rule can be evaded by a certain contract called a futures contract. These problems left the following questions at issue: Why isn't the official contract of future sales of tenant-ownership used exclusively, and what rules are the tenant-owner associations unhappy with? How are these other contracts designed, and what problems do they cause? How has the consumer protection in the law of tenant-ownership weakened? The purpose of this thesis was to make suggestions for improvements of the rules for future sales of tenant-ownership. To make these suggestions some examples of the contracts previously mentioned was analysed together with the laws and rules concerning the contracts. This analysis used the Swedish law and its preparations as well as real contracts gathered from different tenant-owner associations and contractors.

The result showed that some tenant-owner associations and contractors think that future sales of tenant-ownership are not financially effective. It also seemed like they want to avoid some consumer protecting rules about the right to break the contract or the right to receive compensation. A booking or reservation contract means that an apartment is booked or reserved for a buyer, who has to pay a small down payment. Since there is a rule that says it is forbidden for a tenant-owner association to receive down payment without an official contract of future sale of a tenant-ownership, a booking contract is usually signed with the contractor. Because these contracts are established very early, their information is only preliminary. These problems combined with the contracts not being legally binding makes them are very uncertain for the buyer. A futures contract is a contract to buy or sell something at a certain time and at a specified price. It has been uncertain if these contracts were legal regarding not yet granted tenant-ownerships, because of the rule that forbids the contracts to be transferred, but the Supreme Court ruled, in 2001, that the contracts are valid. This means greater uncertainty for the buyers because of the difficulties to overlook the financial aspects of these contracts. The consumer protection in the tenant-ownership law has weakened because the buyer will not always be granted membership in the tenant-owner association until the grant, because the information in the contract is only preliminary and because it is difficult for the buyer to break the contract if the charge is raised essentially. Furthermore, are the booking and reservation contracts not legally binding and the financial effects of a futures contract are very difficult to overlook.

Since the consumer protection is a lot better in the official future sales of tenant-ownership contracts than in the other contracts, the law should make sure only the official contracts could be used. Though the fact that a buyer will not be granted membership in the owner-tenant association until the grant weakens the consumer protection, it is a necessary rule because it make the building process more convenient. It seems difficult to stop a tenant-owner association from splitting the raise of a charge with a law change, but it can be stop if the courts have a lower limit for the term essential in these cases. Below follow some suggestions for improvements in the rules of future sales of tenant-ownership. The first paragraph should be changed so that *only* a tenant-owner association can form a contract of future sale of tenant-ownership. To prevent a contractor from receiving payment in advance the second paragraph could be changed so that *only* a tenant-owner association can receive payment in advance and *only* buy someone who signed a contract of futures sale of tenant-ownership. This could also prevent booking and reservation contracts from being used. To efficiently forbid transfers of the contracts of future sales of tenant-ownership, the sixth paragraph should be changed so that it includes transfers of already granted and sold in advance tenant-ownerships, that has not been possessed yet.

Förord

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2007-06-2