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STRATEGIES TO OVERCOME UNETHICAL ISSUES OF ESTATE AGENCY PRACTICES IN MALAYSIA

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Abstract

The real estate sector contributes significantly to economic growth by providing investment opportunities that influence the social and financial environment worldwide. However, this industry has also faced ethical issues, particularly in estate agency practices, even though there are acts, rules, standards, and bodies governing real estate professionalism in Malaysia. This has vast implications for consumers and the real estate industry. Hence, this study aims to explore strategies and recommendations from the perspective of estate agents to improve estate agency practices and prevent such unethical behavior. To understand the strategies for unethical practices in the Malaysian real estate market, this research employs a qualitative approach involving semi-structured interviews with 15 participants from diverse Registered Estate Agent (REA) practices. This study identified eight strategies to overcome unethical issues of estate agents' practices in Malaysia. This includes regular audits and inspections, encouragement for strict law enforcement, extended periods of comprehensive training, increased awareness through campaigns, limitations of Real Estate Negotiator (REN) recruitment, collaboration with community organizations, reporting mechanisms, and enhanced monitoring by REA. Accordingly, the real estate industry can apply these strategies to reduce unethical behavior and increase the ethics of real estate agents in Malaysia.

Keywords: Real Estate Agent, Real Estate Negotiator, Unethical, Misconduct

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INTRODUCTION

Ethics is a fundamental discipline of philosophy that examines human conduct concerning values such as goodness, badness, righteousness, wrongness, conscience, virtue, and justice (Velasquez et al., 1996). Over time, ethical concerns in professional practices are becoming increasingly vital in all industries worldwide. In the real estate industry, ethical conduct is an essential aspect of professionalism that wins over clients' trust and establishes strong business relationships that may result in more sales. Notably, there are several studies worldwide on real estate that examine unethical issues from various aspects (Markoc & Cizmeci, 2021; Olayinka et al., 2010; Brinkmann, 2009; Chun-Chang, 2007; Larsen et al., 2007; Pheng & Tan, 1995).

A real estate agency in Malaysia is a licensed professional service that facilitates the buying, selling, renting, and managing of real estate properties. These agencies serve as intermediaries between property owners and prospective buyers or tenants, ensuring that transactions are conducted smoothly and in accordance with legal regulations. Correspondingly, Malaysian real estate agencies must be registered with the Board of Valuers, Appraisers, Estate Agents, and Property Managers (BoVAEP), governing their practices and ensuring adherence to ethical standards.

Unethical and wrongdoing issues in real estate agencies in Malaysia refer to actions and behaviors that breach the ethical guidelines and legal standards set by regulatory bodies, primarily the BoVAEP. It regulates the Valuers, Appraisers, Estate Agents and Property Managers Act 1981 (Act 242), Valuers, Appraisers, and Estate Agents Rules 1986, and professional standards the Malaysia Estate Agency Standards (MEAS) to govern the estate agents' professionalism. Despite that, unethical behavior is still an issue for the BoVAEP. According to the Malaysian Institute of Estate Agents (MIEA), the number of complaints has increased up to thirty percent (30%), especially during the periods of the Movement Control Order (MCO) and Conditional Movement Control Order (CMCO) (Jason, 2020).

These issues typically involve conduct that undermines the integrity, transparency, and fairness expected in real estate transactions. Such unethical practices compromise the trust between agents and their clients, leading to potential financial losses, legal disputes, and damage to the profession's reputation. Notably, these wrongdoings can arise from a lack of adherence to professional responsibilities, manipulation of information, or exploitation of a client's lack of knowledge. Thus, addressing and mitigating these unethical practices is essential for maintaining public confidence and ensuring the equitable functioning of the real estate market in Malaysia.

Unethical behavior in the real estate sector also includes the deliberate omission or distortion of critical property information, which can mislead clients

and affect their decision-making processes (Ting & Ahmad, 2024). As such, agents may provide incomplete or false data about a property's condition, legal status, or market value to secure a transaction. Additionally, unethical practices encompass failing to disclose conflicts of interest, such as personal stakes in a property or undisclosed relationships with other parties involved in the transaction. These actions violate the fiduciary duty agents owe to their clients: acting in the client's best interests with honesty and full disclosure.

The persistence of unethical practices in the real estate industry can have far-reaching consequences. In particular, it erodes consumer confidence, which is vital for the real estate market's health. It can lead to increased regulatory scrutiny and imposing stricter laws and penalties. According to Ahmad et al. (2024), strengthening the real estate industry's ethical conduct involves collaboration, a commitment to ethical standards, and ongoing education. Hence, the main objective of this study is to explore the strategies to overcome unethical issues based on the recommendations of the estate agent's perspective. This can help improve estate agency practices and prevent such unethical behavior.

LITERATURE REVIEW

Overview of Board of Valuers, Appraisers, Estate Agents and Property Managers

The BoVAEP is a statutory body established in Malaysia in 1981 under the purview of the Ministry of Finance. The operation is governed under the provision of the Valuers, Appraisers, Estate Agents, and Property Managers Act 1981 (BoVAEP, 2024). The board members consist of the Director General, who shall be the President of the Board, six Registered Valuers from the Public Service, four Registered Valuers who have at least six years of professional experience as valuers and have been nominated by ISM, three Registered Estate Agents (REA) with at least six years experience as estate agents, three Registered Valuers nominated by the President of the Board. Three Registered Property Managers were nominated by the President of the Board (Section 9, Act 1981).

Its primary role is to regulate the professions of valuers, appraisers, estate agents, and property managers to ensure professionalism and ethical conduct within the industry. Moreover, BoVAEP is responsible for registering, licensing, and disciplining practitioners in these fields, promoting integrity and transparency in property transactions. Table 1 summarizes the number of registered members of BoVAEP as of August 2024.

Table 1: The number of registered members of BoVAEP as of August 2024

Types of Registration	Number of Members
Register Valuers (V)	1351
Probationary Valuers (PV)	3156
Register Estate Agents (E)	3122
Probationary Estate Agents (PEA)	4090
Real Estate Negotiators (REN)	56355
Property Management (PM)	3184
Total	71,258

Sources: BoVAEP (2024)

Despite BoVAEP's efforts to uphold ethical standards, unethical practices continue in the real estate sector. Issues such as misrepresenting property values, undisclosed conflicts of interest, and coercive sales tactics have raised significant concerns. For instance, estate agents may inflate property valuations to secure higher commissions or fail to disclose their dual agency roles, representing both buyer and seller, leading to potential conflicts of interest.

The emergence of these unethical practices has prompted BoVAEP to strengthen its regulatory framework and enhance its enforcement capabilities. The Board hopes to encourage ethical practices among estate agents and other property professionals by imposing stricter guidelines and penalties for misconduct. Nonetheless, the Board is still facing unethical issues with estate agencies, as many practitioners may not fully understand the ethical implications of their actions or the consequences of non-compliance. The presence of unethical practices highlights the need for continuous awareness, education, and enforcement to safeguard the interests of consumers and maintain the integrity of the estate agency industry.

Overview of Registered Estate Agents (REAs) and Real Estate Negotiators (RENs)

In the real estate sector in Malaysia, REAs and Real Estate Negotiators (RENs) serve as intermediaries or third parties in property transactions. REAs and RENs must obey all the guidelines under the Valuers, Appraisers, Estate Agents, and Property Managers Act 1981, Rules 1986 and MEAS. The services offered by these agencies typically include marketing, negotiation, and the preparation of necessary documentation, providing clients with comprehensive support throughout the transaction process.

However, they have multiple roles and qualifications. REAs have fully licensed professionals who register under BoVAEP to supervise transactions and ensure compliance with legal standards. Meanwhile, RENs work under the supervision of REAs, facilitating negotiations and client interactions.

From the perspective of qualification, according to the Act 1981, only candidates that possess a diploma or degree in a related field recognized by the

BoVAEP, complete training, and pass an oral exam under the Test of Professional Competence (TPC) qualified to be REA. Conversely, REN is not required to have formal education as REA. They are only required to complete two days of Negotiator Certificate Courses (NCC) endorsed by the Board and certification. Only then can REA register its negotiator with the Board as a REN. Once approved by the Board, REN will be provided with a REN number to practice. This is where all the action taken by the REN is under the responsibilities of the REAs. Subsequently, the REAs need to ensure the point of hiring RENs is according to the criteria set by the BoVAEP as stipulated in Standard 2, Negotiators (MEAS).

Unethical Issue Reported

Estate agents act as middlemen during the property selling and purchasing process. Most estate agents serve their clients to the best of their ability. Unfortunately, certain common trends among unethical agents make the sales process difficult for their clients. Any disciplinary cases reported that relate to ethical conduct in real estate transactions comprising breaching the Valuers, Appraisers, Estate Agents and Property Managers Act 1981 or Rules 1986 made thereunder, including the MEAS, BoVAEP is the responsible body to take such action. The circular issued by the BoVAEP on the website illustrates each misconduct case together with the charges under respective regulations and the penalties. It suggests that the Board is taking serious action to uphold the profession's integrity.

There are several unethical issues and misconduct committed by the estate agency (Circular, BoVAEP), such as:

- (i) Failure to ensure that all REN(s) employed/engaged by the REA are registered with the Board.
- (ii) Failure to protect the public against misrepresentation and unethical practices.
- (iii) Failure to obey the advertisement requirement stated in the Rules 1986, such as:
 - Placed advertisements without the negotiator's registration number,
 - Solicitation for instructions on their advertisements,
 - Displayed a billboard without obtaining prior consent of the Board,
 - Advertisements that contain a self-laudatory statement.
- (iv) Unethical practices in overseeing clients' money in real estate transactions.

RESEARCH METHODOLOGY

This study aims to determine the strategies and recommendations for unethical issues of estate agents to improve estate agency practices in Malaysia, with a particular focus on Selangor. To gain in-depth insights into these practices and formulate effective strategies for reform, a qualitative research approach was adopted via semi-structured interviews with estate agents in Selangor. It thoroughly assesses participants' perceptions and experiences on the unethical issues of estate agents and perceptions, which may not be captured through surveys or quantitative methods.

This study utilized semi-structured interviews to facilitate a comprehensive exploration of these issues. This format provides a flexible framework to ensure that core topics are covered while allowing participants to express their views on their own terms. This approach is particularly valuable for exploring sensitive topics like unethical practices, where the depth of understanding is crucial.

DATA COLLECTION

The target population for this study includes estate agents operating in Selangor. According to the latest data from the BoVAEP (BoVAEP, 2024), there are approximately 3,122 REAs in Malaysia. A purposive sampling strategy was employed to select participants actively engaged in estate agency work in Selangor and had diverse experiences.

A sample size of 15 estate agents was targeted in this study. This number is sufficient to achieve data saturation, where additional interviews yield minimal new information. According to Guest, G., Bunce, A. and Johnson L. (2006), 12 interviews can be sufficient to reach saturation in qualitative research. The shortlisted participants are selected based on criteria that fit the purpose of this study. It includes a mix of agents from various agency sizes, experience levels, and areas within Selangor to ensure a representative perspective. In addition, semi-structured interviews were conducted in person via face-to-face and online platforms. The researcher conducts the interviews from May 2024 until Jun 2024. Each interview is audio-recorded with participants' consent and transcribed verbatim for analysis.

DATA ANALYSIS

The content of interview transcripts was analyzed using a thematic analysis approach. This approach involves four stages of analysis, starting with familiarization with the data through reading and re-reading transcripts. Secondly, initial codes from the transcript were generated using qualitative data analysis software such as QSR NVivo version 14 software. During the coding process, phrases and keywords were evaluated and encoded with appropriate

category labels (Saldana, 2009). The data is separated into entities and categorized (Miles & Huberman, 1994), and themes are developed.

Thirdly, codes are aggregated into themes that capture the key points of the strategies to overcome unethical issues in estate agency practices in Malaysia. Lastly, themes are refined to ensure that the data accurately represent the objectives of this study.

ANALYSIS AND DISCUSSION

The perspectives and experiences of the REAs in Selangor were analyzed using thematic analysis, utilizing verbatim quotes from 15 participants. The study's findings highlighted the main strategies for improving the unethical practices of estate agencies in Malaysia. Table 1 provides the summary responses from the 15 participants regarding the strategies for improving the unethical practices of estate agencies.

Table 1. Response on Strategies to Overcome Unethical Practices by EA Practices

Strategies/ Participants	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Audit & Inspection	/	/		/	/			/		/	/	/			/
Law Enforcement	/			/		/			/	/			/		
Training	/	/	/	/			/	/	/		/			/	/
Awareness Campaign	/		/		/	/	/					/			/
Recruitment		/			/		/	/				/			
Community organizations				/				/	/				/	/	/
Reporting						/				/			/		
Monitoring			/								/				

Sources: Author's, 2024

In this study, eight main strategies were identified in improving the unethical practices by estate agency practices, which are:

Audit and Inspection

Regular audits and inspections by regulatory bodies such as BoVAEP play a crucial role in upholding ethical standards in the real estate industry. These audits should be rigorous and undertaken regularly to ensure that all firms comply with the regulatory framework. Thus, firms may avoid severe penalties and protect their reputations by identifying issues beforehand. REAs suggested that:

“Appoint a specialized unit under the BoVAEP to identify any unethical actions in the real estate industry.”

Law Enforcement

Encourages strict law enforcement strategies and increased penalties for non-compliance. Notably, implementing strict enforcement measures, such as rigorous monitoring, regular audits, especially on advertising, and swift response to violations, can deter self-laudatory statements and misleading claims. Accordingly, agents will be more cautious about making exaggerated claims if they know there is a high risk of detection and serious consequences. In line with this, enhanced enforcement can effectively decrease misleading advertising, promoting a more ethical environment where agents compete based on genuine merits rather than inflated claims. The REAs proposed that:

“Review the marketing standards and regulations to ensure full compliance by the agents.”

“The BoVAEP should rigorously be enforcing the existing laws.”

“Foster closer collaboration between the regulatory bodies and real estate industry associations to align on competency standards and address any systemic issues that undermine the professionalism of estate agents.”

Training

Extended the comprehensive training period and ongoing education progress for RENs (instead of two-day courses only). The regulatory bodies should ensure that REN receives thorough and ongoing training to develop the core competencies required for effective real estate practices. This should include modules and exam on communication skills, market knowledge, property evaluation, customer service, and compliance with industry standards and regulations. In addition, facilitating knowledge-sharing forums and encouraging ongoing education can empower RENs to expand their understanding of the transaction process and enhance their professional competence over time. REAs recommended that:

“Comprehensive training and development for the RENs should be implemented to improve collaboration with industry associations by providing mentorship as peer-to-peer learning opportunities.”

“Ensure all the agents are thoroughly trained on the act and related law prohibiting discrimination.”

“Important for REAs to conduct training for RENs in their firm to ensure they understand the ethic and code of conduct as estate agency instead of fixed training duration.”

Awareness Campaign

Ensuring clients' protection through independent verification and public awareness campaigns. The clients themselves should independently verify information provided by agents prior to entering into transactions. This involves physically visiting the property, consulting multiple sources, and seeking professional advice to ensure informed decision-making. Additionally, buyers should verify if the agent possesses a REN tag or REA registration number to facilitate potential dispute resolution in court. Furthermore, it enhances clients' awareness campaigns by elucidating the roles of regulatory bodies like BOVAEP. According to the REA as follows:

“Until now, the buyer is still being cheated by the illegal estate agents because they cannot differentiate the legal and illegal estate agents.”

“Some of them are afraid to use our service because they have been cheated before.”

“Should have an effective campaign on radio and television or any advertisement to the public.”

Recruitment

Implement limitations on recruiting RENs in Malaysia to improve estate agency practice by maintaining the quality and ethical standards of the practice. New agents meet strict expertise, ethics, and integrity standards, promoting a more professional industry. Over-hiring leads to a competitive market that can encourage unethical behaviors, such as false advertising and property misrepresentation. REAs stated that:

“Hiring more REN is an opportunity to REA, but to control the quality of the REN is difficult to control.”

“Restricting recruitment requirement.”

“Over-hiring leads to a competitive market that can encourage unethical behavior.”

Community organizations

Collaborating with community organizations and strengthening fair housing compliances. This includes engaging with civil rights groups, community leaders, and advocacy organizations to better understand marginalized communities' experiences and develop real estate industry strategies. Furthermore, good

community communication techniques can enhance client satisfaction and trust, reducing misunderstanding and discrimination risks. This approach fosters inclusivity and respect in the real estate sector, enhancing companies' reputations as welcoming and reputable entities in the market. REAs recommended that:

“Collaborate with the community organization by providing an educational program to society.”

Reporting

A robust improvement in the reporting mechanism could expose any cases of quota violations. Encouraging stakeholders, including customers and professional bodies, to report suspicious activities provides regulators with critical information against investigation processes. REAs proposed that:

“Provide an easy link to access for the community to make a complaint on the estate agents.”

Monitoring

Enhanced management and monitoring by REA. To sustain real estate standards, REA must manage and monitor their RENs activities, provide guidance, and ensure that all regulatory compliances and professional standards are met. REAs suggested that:

“REAs need to ensure that all their RENs follow the regulations set by the BoVAEP.”

“They (REAs) should monitor their own RENs, especially those that employ a high number of RENs in the firm and new RENs.”

Lastly, despite the efforts to overcome this issue through legal arrangements, the extent to which these regulations will be successful is still a matter of intense debate among practitioners and regulatory bodies. The way forward to combat these issues involves commitment from the real estate professionals to adhere to a strict code of ethics, undergo continuous professional development, and regulatory bodies to enforce compliance rigorously. Therefore, promoting ethical conduct protects consumers and enhances the credibility and professionalism of the real estate industry in Malaysia.

CONCLUSION

In conclusion, the implications of unethical practices could tarnish the industry's reputation and erode stakeholder trust. To address these issues effectively, regulatory bodies must enforce strict ethical standards and impose appropriate sanctions on violators. Additionally, comprehensive training programs should be implemented to enhance agents' understanding of ethics, cultural sensitivity, and the significance of building strong customer relationships. Notably, by promoting integrity and transparency, the industry can regain trust and foster a more ethical and sustainable real estate market.

This approach benefits consumers and agents and strengthens the overall reputation and reliability of the real estate sector in Malaysia. Thus, upholding ethical standards and preserving professionalism is critical for restoring confidence and sustaining the long-term viability of Malaysia's real estate business. This, in turn, will benefit both professionals and consumers, ensuring a fair and reliable real estate market in Malaysia.

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