

# Newly hired staff must get salaries from date of job contract approval



**ASHISH MEHTA**  
LEGAL VIEW

**Q:** My friend resigned from her job in mid-March to join a firm on an unlimited contract. Two days prior to joining, she was told that her start date was delayed and after another two and a half months, she was told that she needed to resign because the position was declared obsolete. During this period, she was furnished a visa, along with medical insurance, but she didn't get any stipend for her day-to-day expenses. Is she entitled to any compensation for loss of income, or the salaries she never received because her starting date was pushed?

**A:** We assume that your friend has signed an employment contract with her employer as she has been issued with a UAE residence visa. It should be noted that your friend's official employment with her new employer commenced from the date the signed employment contract was approved by the Ministry of Human Resources and Emiratisation (MoHRE) and General Directorate of Residence and Foreigners Affairs (GDRFA), as applicable. Therefore, your friend is entitled to salaries from the date her employment contract was approved by the MoHRE/GDRFA until the end of her employment.

It is recommended that your friend approach the administration or human resource department of her employer and request them to pay her salaries from the

date her employment contract was approved. Further, your friend may consult a legal practitioner in the UAE.

## File civil case against flat co-owner who fails to pay mortgage loan

**Q:** I own a mortgaged flat registered in Dubai. I have one partner and we own two units in one tower. When units were handed over, the finance company through which these are mortgaged started charging the EMI. In April 2018, my partner lost his job and left the country without informing me. I learnt about it only when I asked his brother where he was. I have been granted a power of attorney by my partner and it was issued before he left the country. Since March 2018 until today, I have been settling all EMI payments. There was absolutely no contribution either from my partner or his brother. What legal action should I take against my partner?

**A:** All mortgaged properties in the emirate should be registered with the Land Department of Dubai. As you are paying your partner's share of the mortgage loan, you may file a civil case against him to recover the amount you paid on his behalf.

This is in accordance with Article 335 of the Federal Law No. 5 of 1985 on the Civil Transactions Law of the UAE. It states: "If a mortgagor settles the debt of somebody else, to liberate his mortgaged property in security for such debt, he is entitled to revert on the debtor for what the amount settled by him."

Alternatively, you may consider selling the units to yourself or to a third party, subject to the consent of the mortgagee and provided that the power of attorney you are holding permits you to do so.

If the power of attorney that your partner

has given you does not allow you to transfer or sell his share of the mortgaged flats, then you may request him to issue another power of attorney.

Further, if he is not responding to you to pay the mortgage loan amount or to allow the transfer of the property, you may continue to pay the EMIs to the mortgagee. Upon the completion of the payment for the entire mortgage loan, you may file a civil case against your partner to recover the mortgage loan amount you paid on his behalf.

You may place your claim against your partner in accordance with Article 335 and Article 320 of the Civil Transactions Law of the UAE.

Under Article 320, "whoever gives something, being under the belief that he is under duty to do so, but it was later revealed that it is not due by him, he is entitled to recover it from the one who received it, if existing, or a similar thing in replacement thereof or its value, if not existing."

You may also request the court for a judgement in your favour to transfer your partner's share to your name as you have paid the entire mortgage loan amount. For further clarifications, you may consult a legal practitioner in Dubai.

## Know the law



If a mortgagor pays the debt of a property co-owner, he may file a civil case in court to demand the debtor to pay the amount he settled.

## Know the law



Official employment starts from the date the signed job contract was approved by the MoHRE/GDRFA.

**ASHISH MEHTA** is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom, Singapore and India. Full details of his firm on: [www.amalawyers.com](http://www.amalawyers.com). Readers may e-mail their questions to: [news@khaleejtimes.com](mailto:news@khaleejtimes.com) or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.