PARLIAMENTARY QUESTION

The Honourable Second Member for Port Louis Maritime and Port Louis East (Mr Ameer Meea)

To ask the Honourable Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development –

Whether, in regard to the Commission of Inquiry set up to look into the Sale by Levy, he will state if the recommendations thereof have been implemented and, if not, why not?

PQ B/ 324

PARLIAMENTARY QUESTION

The Honourable Third Member for Rose-Belle and Quatre Bornes (Mr Ramano)

To ask the Honourable the Attorney-General –

Whether, in regard to the Sale by Levy, he will state when new proposed legislation in relation thereto will be introduced in the House?

Reply
Madam Speaker

With your permission, I shall reply to PQ B288 and PQ B324 as both relate to the same subject.

The Report of the Commission of Inquiry on Processes/Practices for Granting of Loans Secured on Immovable Property and Sale by Levy was submitted in August 2014. It was made public on 08 May 2016 and copy of which was tabled in the House at the sitting of 17 May 2016.

The Report contained 10 main recommendations which are as follows:

First, borrower and guarantor should be provided with a copy of the Loan Agreement prior to the signing of the said Agreement. This has already been implemented.

Second, borrower be given a ‘delai de reflexion’ of ten days as well as a ‘delai de retraction’ of ten days. This recommendation has already been adopted. In fact, Commercial Banks are giving up to three months for delai
de reflexion. In the case of delai de retraction, following his acceptance to the facility offer, the borrower is given a delay until the date of disbursement.

Third, clients to be informed regularly of outstanding amount. This is already in force.

Fourth, application of Article 2202-6 of the Code Civil Mauricien to be in conformity with Article 1154 of the Code relating to Capitalisation of Interest. This has been implemented in the Finance (Miscellaneous Provisions) Act 2016.

Fifth, the Borrower Protection Act to cover all loans secured on immovable property contracted for a residential purpose. The First Schedule of the Borrower Protection Act was amended by way of regulations to increase the maximum sum under a credit agreement from the previous limit of Rs 2 million to Rs 3 million. Therefore, all credit facilities up to Rs 3 million will fall under the purview of the Borrower Protection Act.
Sixth, to replace the Office of Commissioner for the Protection of Borrowers by a Commission. This recommendation has not been retained.

Seventh, National Solidarity Fund to provide assistance to deserving families who have lost their residence by the system of sale by levy. This recommendation is being considered in the context of the budget exercise.

Eighth, all Loan Agreements secured on immovable property should be by authentic deed. My Ministry is presently having consultations on the secured transactions reforms which will entail amending the Code Civil Mauricien and the Code de Commerce. This proposal will be considered within that reform.

Ninth, the family residence should not be given in guarantee of loans except when the loan is for the purpose of purchasing land to erect the family residence or the improvement of such residence. This
recommendation will also be considered in the secured transactions reforms.

Tenth, to replace the current system of Sale by Levy by a system in line with international best practice. The Attorney-General’s Office is currently looking into the process of the Sale by Levy at the Master’s Court with a view to bringing necessary amendments to the Sale of Immoveable Property Act. In parallel, the Bank of Mauritius is enlisting the services of a consultant to assist in the setting up and operationalization of the Asset Management Company.

As regards PQ B/324, the Honourable Member will undoubtedly appreciate that reform of the Sale by Levy procedures is by no means an easy task.

Nonetheless, I wish to reassure the House that, in line with what is provided in the Government Programme 2015-2019, the Government stands committed to bringing necessary reform to the Sale by Levy procedures and we
shall come to the House with the necessary legislative amendments by the end of the year.

P.K.J