

Incorporating Plain Legal Language in mortgage bonds

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Plain Legal Language (PLL) has been emerged as opposed to Traditional Legal Language (TLL) as the later has been criticized for being archaic, incomprehensible and wanting of effective communication. Many developed countries have accepted that the language used by lawyers should agree with the common speech, unless there are reasons for a difference and have introduced PLL into their legal systems. Yet, Sri Lankan lawyers still follow the age-old forms out of habit even in the absence of a prescribed form. This paper, analyses a traditionally worded insurance clause in Sinhala mortgage bond form used in banks (Original Clause) in comparison to its revised version in PLL (Revised Clause) and the effect of using the Revised Clause instead of using the Original Clause for which a Notary Public's assistance is sought. The researcher has used a clause in Sinhala as there is ample research conducted in PLL analyzing and revising English mortgage bonds. The researcher has restricted the research to mortgage bonds as they are widely criticized for the highly stylized TLL which locks up unfavorable terms from the customers. Also, mortgage bonds create very special legal rights to mortgagee and serious obligations on the part of the mortgagor making mortgage bonds a boon to the banks and a doom to the customers. This paper is the only paper in which a Sinhala clause in a legal document is revised in PLL as PLL is still so alien to Sri Lanka. To revise the Original Clause to improve its readability and effective communication, the writer has created a four-step process namely, segmenting the sentence structure, removing legal jargon and technical terms, eliminating wordiness and improving tone and layout. Thereafter, the Revised Clause is compared with the Original Clause by circulating a questionnaire among a randomly selected group of 50 individuals to formulate an opinion on their degree of comprehension and their views. The findings reveal that the Original Clause is complicated, and complete gobbledygook to 95% of the sample and the Revised Clause is understandable at first reading to 100% of the sample as the meaning is clear and succinct. This paper concludes by citing case law to answer the question of precedent and justifying the moral obligation of a legal draftsman to draft in PLL as people who need the law are the least capable of understanding the law.

Keywords: PLL, TLL, mortgage bond form