

# **Buying & Selling Property – Tricks of the Conveyancing Trade**

Found your dream home? Or perhaps you are ready to sell your property? Then you need advice on the tricks of the conveyancing trade.

## **What is a conveyance?**

A “conveyance” is simply the legal instrument transferring land from the vendor (the selling party) to the purchaser (the buying party). “Conveyancing” refers to the work involved in preparing these deeds in order to transfer this interest in land.

You may be thinking of doing your own conveyance or using a licensed conveyancer. Generally speaking, “DIY” conveyancing can be quite risky, as you don’t get the same insurance available to legal professionals. Speak to us at Cassab and Associates to ensure that your property transaction is in safe hands.

## **Obtaining financial approval**

If you are a purchaser, you will need to be financially equipped before commencing your house hunting adventure. This means that you need to shop around and find a lending institution to obtain financial approval, so that you can confidently proceed with sale negotiations as soon as you have found your dream home.

## **The contract for sale**

If you are a vendor and have negotiated a purchase price with the purchaser, you will need to provide the purchaser with a copy of “contract for sale of land.” This is the legal document that describes the property and contains the provisions that protect the rights and interests of both the vendor and the purchaser. The contract generally includes:

### **Property details**

Special conditions, implied terms and warranties

Inclusions

Title search confirming proof of ownership

Survey outlining the property’s measurements and boundaries

Council certificate

Drainage diagram showing drainage and sewer lines

Building and pest inspection reports, if any

A strata inspection report (if the property is part of a strata scheme)

Copies of other relevant documents showing restrictions to the use of land

As a vendor, your solicitor will prepare the contract and attach all required statutory searches and certificates. The purchaser is then provided with a copy of this contract.

As a purchaser, you need to be completely happy with the contract before proceeding with the conveyance. A solicitor can ensure your contract contains all the necessary provisions so that you avoid any nasty legal surprises further down the track.

## **Buyer beware!**

If you are a vendor, you are under no obligation to disclose to the purchaser any defects in the property or title other than required under the contract by law. This means that it is up to the purchaser to carry out all necessary inspections and be fully satisfied that the property is not,

for instance, structurally defective, infested with creepy crawlies or in need of electrical re-wiring. Other handy checks to conduct include obtaining an air traffic report to spot noisy flight paths and land development restrictions on pools and other improvements.

### **Exchanging contracts**

Exchanging contracts is one of the most important steps in the conveyancing transaction. The exchange of contracts is where legal representatives of both the vendor and purchaser meet and thoroughly check that both contracts are identical.

Once both parties are happy that the contracts are identical and contain all the agreed provisions, they each sign and date the contracts and physically swap them. The balance of the deposit monies is also handed over to the vendor. This final act of exchange signals that both parties have agreed to the same terms and conditions of the contract and are legally bound under its terms and conditions.

### **Settlement**

“Settlement” is where solicitors for the vendor and purchaser meet with respective financial representatives to transfer and conduct a final check of the relevant legal deeds, pay the balance of the purchase price and complete other payments such as stamp duties and outstanding council and water rates.

A number of essential steps need to be taken prior to settlement. An experienced property lawyer will ensure that these steps are followed with the utmost care so that the settlement will be a relatively smooth transaction. These steps include:

- Requisitions on title, which involves the purchaser making final inquiries to the vendor about the property
- Calculating and arranging payment of taxes such as stamp duty and land tax
- Advising you on your mortgage and financial agreements, if any
- Conducting further inquiries on behalf of a purchaser as to planned developments or other interests in the land which could affect the property
- Arranging final inspections and inquiries to reveal previously undisclosed defects of building disputes.
- Calculating final adjustments for council and water rates
- Lodgement and registration

As a new purchaser, you will need to lodge all legal documents following your successful settlement transaction. Lodging your legal documents with the Land and Property Information formally registers the change of ownership of the property from the vendor to you as the proud new owner.

### **The trick to transferring property properly**

Buying and selling property can often be an exciting and rewarding experience. However if you are not familiar with the conveyancing process and do not seek the advice of a solicitor, it may cost substantial time and money for all parties involved.

Whether you are buying or selling residential property, speak to us at Cassab and Associates so that every step of your property transaction is achieved professionally and with care.