



**Paul Currie LLB BCom**

paul.currie@currielawyers.co.nz

113 Blenheim Road  
P O Box 8261  
Riccarton  
Christchurch 8440

Phone: 348 8823  
Fax: 348 9432  
Mobile: 027 227 1887

## INTRODUCTION

Whether you are buying or selling for the first time you will want the experience to be positive and rewarding. You can avoid a lot of potential stress, cost and frustration by following the basic steps.

## IF POSSIBLE SEE US FIRST

Make sure whatever you are about to sign is right for you before you sign it! Remember:

- You usually cannot change an agreement after you have signed it;
- Your agreement might be with your agent (an authority to sell) or with the property buyer or seller;
- We can help you prevent small problems turning into big ones.

## We will help you to:

- Understand what we can do for you;
- Understand the process of buying and selling;
- Avoid the pitfalls;
- Find out the costs;
- Complete any other legal work you may need, such as a will or power of attorney, set up a trust, taxation or property relationship matters;
- Understand the agent's role, who they work for, how they are paid and how you can get the best value from them.

## THE PROCESS

### Prior to viewing a property:

- Consider the price range for the type of property you want and how much you can afford to borrow.
- Identify key real estate agents; check out their listings in publications and websites.
- If you do not understand any part of a contract do not sign it before we have had a chance to discuss it with you.
- Normally a real estate agent will negotiate the price and conditions you want.

### Negotiating the contract:

- You sign a final agreed offer through the real estate agent. If it is a private sale then we can prepare the contract.



# PURCHASING A PROPERTY

- You should consider adding at least the following conditions:
  - (a) Our approval of title to the property;
  - (b) Our approval of a satisfactory Land Information Memorandum (LIM) from the local authority;
  - (c) You obtaining satisfactory finance to purchase the property;
  - (d) You obtaining a satisfactory builder's report on the property;
  - (e) You obtaining a satisfactory valuation for the property.
  - (f) You should also consider any items that you want the vendors to fix and write it in the contract as an obligation for the vendor to complete prior to settlement.
- Consider your loan options – we can point you in the right direction to assist with the finance process.

## **After acceptance of the contract and prior to confirmation of the conditions:**

- We will check the title and order a LIM, help with arranging a valuation and, if required, a builder's or engineer's report.
- We will try to resolve any title or LIM problems with the vendor.
- We will check all conditions have been met. If so, the contract is declared unconditional.
- The deposit is usually payable upon confirmation (if you have not already done so under the contract).

## **Prior to settlement and possession:**

- If you require a loan, you will sign an authority to register a mortgage charge and sign loan agreements.
- We will confirm the amount we require on settlement and assist you to arrange payment. Usually the bank draws any loans directly to our trust account and we obtain the balance from you or the bank, with your authority.
- You will need to organise your move, change of address and phone, power, gas and other utility connections.
- Before settlement carry out the final inspection of the property you are buying (this is not an automatic right if you are buying a rental property).
- We will complete settlement on your behalf with the vendor's lawyer. Once settlement is completed, we will arrange for you to pick up the keys.
- You move in on settlement / possession date or another agreed date.

# PURCHASING A PROPERTY

Behind the scenes, we will make sure that your transaction goes through with the minimum of fuss looking after your interests every step of the way.

## OWNERSHIP AND OTHER ISSUES

Get these things right the first time. A change required later will mean extra cost.

Should you own the property in your own name, a trust or company? There are taxation and other issues here. There are also taxation and other implications if you are buying property as an investment.

You might buy the property as a single person, as a married, or de facto (including same sex) couple, with a friend or in a business partnership.

We will ask:

- Should you buy the property in joint names?
- Should you buy the property in equal shares or unequal shares?
- What does buying the property as tenants in common mean?
- Do you need a property ownership agreement?
- Does a will make any difference to the form of ownership?
- How do wills and trusts work together?
- How does the Property (Relationships) Act affect you or anyone you buy a property with?

Where your family is prepared to help you financially:

- Should your family lend or give you the money?
- If it is a gift, will your family have to pay gift duty?
- If it is a loan, how will it be protected and how will you pay it back?
- What are the implications of a guarantee?

## COMMONLY USED TERMS

### Agreement/Contract

Also called the agreement for sale and purchase between the seller and the buyer, or contract. This is usually the latest edition of the Auckland District Law Society form of agreement.

### Vendor

The person who is selling the property. The vendor pays the commission to the real estate agent who arranges the sale of the property.

# PURCHASING A PROPERTY

## Purchaser

The person who is buying the property.

## Chattels

Items that are included in the sale that are not legally part of the building. They usually include any stove, carpets, blinds, drapes and light fittings. They may also include rangehoods, dishwashers, refrigerators, heaters etc. Chattels not specifically listed in the agreement are not included in the sale.

## Conditional Agreement

A legally binding agreement that can be cancelled if certain conditions are not satisfied. An agreement can, for example, be conditional on:

- The buyer arranging suitable finance to complete the purchase;
- The buyer getting a satisfactory builder's report or valuer's report;
- The seller finding another property.

The agreement becomes unconditional when all the conditions are satisfied.

## Deposit

Part of the purchase price (usually 10%) paid by the buyer when the agreement is signed or when it becomes unconditional, or when stated in the agreement. Please note if the deposit is not paid on the due date, the vendor may charge interest and/or a notice to cancel the contract for non-payment.

## Equity

What you own – rather than what you owe!

## Settlement Date

The date the purchase price is to be paid in full. This is usually the same date as the possession date.

## Title

The Certificate of Title is an electronic document that describes the property and shows the legal owner of the property. In New Zealand, it can be a freehold, leasehold, cross-lease or unit title. We can explain the different types of title ownership to you and their implications prior to signing the contract.

*Disclaimer: The information contained in this guide has been prepared for general information purposes and whilst every care has been taken in its preparation, no warranty or representation is given (express or implied) as to its accuracy or completeness. This guide should not be used as a substitute for specific advice,*