



Clayton James

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Short Notes on Buying & Selling

These notes are in response to the questions on what happens in a sale or purchase and are a short general guide only. Each matter is different with different circumstances and problems which should be discussed with your solicitor.

1. The Vendor lists the property with their agent.
2. For residential property the Vendor has their solicitor prepare a draft Contract for Sale disclosing relevant information such as title search, plan of property, details of easements, zoning certificate, sewer diagram and if a strata unit – the strata plan and common property.
3. The agent obtains agreement between the Vendor to sell and Purchaser to buy at an agreed price; details of what's included in the sale and settlement terms.
4. The Vendor's solicitor sends the Contract for Sale to the Purchasers solicitor.
5. The Purchaser does pre-purchase inspections like Pest and Building reports, check council records to ensure the building is approved – you must have Vendor signed approval to do this. The Purchaser arranges a deposit and obtains finance approval to buy from their lender in writing. Prior to exchange.
6. The parties see their respective solicitors who go through the Contract with them and agree on the final Contract. This is where you may notice things are not in the contract that you expected or you may need further special conditions in the Contract as things have changed since the initial negotiation. The Contract is sent to the purchaser's solicitor 'with no legal obligation'.
7. Once all is agreed, deposit is paid to the agent then Contracts are exchanged. At exchange the solicitors ensure that the Contracts are in identical form – then they exchange by giving the Vendors signed Contract to the Purchaser and the Purchasers signed Contract to the Vendor. Now the contracts are binding. Cooling off – period or a 66w. If a 66w certificate is given this waives the purchasers right to a cooling off – period. If no 66w certificate is given (other than rural land) then a 5 day cooling off-period exists in which time the purchaser can rescind the Contract forfeiting 0.25% of the deposit paid to the Vendor. Most Vendors require a Section 66W Certificate. The cooling off period does not apply to any properties brought at auction.
8. The Purchasers solicitor notifies the lenders of exchange and requests mortgage documents. The lender prepares documents and applies for First Home Owners Grant, if applicable.

9. The Purchasers solicitor applies for relevant searches on the property such as council rates, land tax etc.
10. The Vendors solicitor notifies the Discharging Mortgagee (Lender) who prepares the discharge of loan and payout figure.
11. The purchasers solicitor arranges payment of Stamp Duty or exemption if applicable i.e. Builders Bonus.
12. Both sides arrange settlement. Purchasers' solicitor prepares settlement adjustment statement and forward to the vendor's solicitor for approval. Once accepted the Vendors solicitor advise how cheques are to be drawn (mostly bank cheques). Under the contract the Vendor is allowed to ask for 5 cheques including bank cheques after this they are to allow \$10 per cheque.
13. Two days prior to settlement the purchaser attends a final inspection of the property with the agent. This the purchaser's last opportunity to ensure the property is in the same state of repair as when they first made the offer including items included on the contract.
14. Both sides attend settlement along with the discharging lender and incoming lender, if any. On settlement a discharge of mortgage and Certificate of Title are handed to the incoming (purchaser) in return for the balance of purchase monies. All documents are check and verified.
15. The incoming lender collects all documents relevant to the title and will forward them for registration with LPI. If purchaser is a cash buyer then their solicitor will collect and forward to LPI for registration on their behalf (additional registration fees will apply).
16. After settlement the agent is sent a fax from the Vendors solicitor confirming settlement.
17. The vendor and purchaser will receive letters from their solicitors confirming settlement.

This is a basic example only. Should you wish to clarify any point or need further information please ring me.

The call is at no charge and obligation free.

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