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# **BUYING AND SELLING PROPERTY**

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## **INTRODUCTION**

Whether you are buying or selling a home or an investment property the transaction involves a great deal of money and is often the single most important asset you own or are about to own. Solicitors are not often thought of as being able to act in conveyancing matters, yet they have the breadth of experience and qualifications to be able to assist you in these matters as well as acting for you in your business or private affairs.

### **TENANTS IN COMMON OR JOINT TENANTS?**

When there is more than one person named as the owner of land then it is held either as joint tenants or tenants in common. The difference lies in the manner in which the property is dealt with if one of the owners dies. Make an **informed** choice when buying property about the way in which it should be owned and seek advice from your solicitor if in any doubt.

With **JOINT TENANTS** the property passes automatically to the remaining owners named on the title regardless of what the deceased person's will might say.

With **TENANTS IN COMMON** the property passes to beneficiaries under the terms of the deceased person's will which need not be to the other registered owner.

For example, unrelated purchasers, de facto couples and in some second marriage situations, holding as tenants in common is the most appropriate. Commonly married couples hold as joint tenants so that on the death of one party the property passes easily to the other without the need for the possibly unnecessary cost of a Grant of Probate being obtained.

### **STAGES OF A CONVEYANCING TRANSACTION**

There are several stages to a conveyancing matter from the time the contract is signed. There are government searches, finance arrangements to be organised, preparation of documents and title searching. Then there is the adjustment of outgoing, attending to stamp duty and settlement. There could be matters to do with encumbrances, Strata or Community Titles, land divisions or stamp duty exemptions which may also need to be attended to.

It is a complex series of tasks that requires knowledge and skill. It is a misconception that conveyancing is a simple process that takes little time.

When dealing with an investment or commercial property there are also taxation, GST and capital gains issues which are relevant.

The finance documents are getting more complicated these days and we find that the time necessary to organise the financial aspects of the loan (and discharge) is getting longer. There is therefore a need to act promptly as soon as a contract is signed to instruct the financier and your solicitor so that settlement delays can be avoided.

You are investing a lot of money in the property you are buying or selling so you should choose an experienced professional to look after the transaction for you. Real Estate Agents cannot act as conveyancers.

## **PRIVATE SALES**

If you are selling your property privately without a real estate agent we can assist you with the necessary contract and disclosure documentation and guide you through the process. You will not then be paying any commission on the sale and we charge a competitive fixed fee for the preparation of the documentation.

### **WHAT WILL I PAY AT SETTLEMENT?**

In addition to the purchase price (less any deposit you have already paid) you will pay stamp duty and government registration fees which are set depending on the price of the property. We can advise you of these amounts. In addition all outgoings of the property including council rates, emergency services levy and any land tax are adjusted for the financial year and Water rates are adjusted for the current quarter. You will be asked to refund the vendor at settlement for the amount they have paid for the financial year or quarter following settlement. A settlement in July or August will mean you will need to budget for almost a full year's rates payable at settlement whereas a settlement in May or June will not amount to as much money having to be paid. We do these adjustments for you and advise the amount you need to provide.

### **CHOOSE YOUR OWN CONVEYANCER**

When it comes to entrusting the documentation, advice and co-ordination of the transaction to a solicitor or conveyancer remember you have the right to choose who you wish to have acting for you. Do not assume it is for the Real Estate Agent to decide who will give you the advice. They may not recommend the best person for your needs. Do not be misled into thinking it is easier or cheaper to use the agent's registered conveyancer. This is often not the case.

Many people think that the transaction is just a few forms to be completed and that anyone could do this on their behalf.

Adelta Legal has a reputation of acting in all matters efficiently and at reasonable cost. Being solicitors, we can offer advice in a broader sense relating to a wide range of issues including wills and estates which may have an effect on your property transaction.

Solicitors fees in conveyancing matters are very competitive with those charged by Registered Conveyancers. Ring our office for a no obligation free quote and we will give you an indication of what is involved in your transaction.

We act for clients all over Australia and overseas in conveyancing matters. If our office is not convenient to you we can send documents by mail and provide you advice by telephone, fax or email.

We have several experienced Solicitors available to handle your transaction. We are happy to answer any queries you have on a no obligation basis.

***Check our website for more information at [www.adelta.com.au](http://www.adelta.com.au)***