

Doin' it *Dave's* way!



Things to be aware of when buying at a Mortgagee Sale

There has been a lot written about the great bargains to be had at a mortgagee sale due to the forced nature of the sale. There has also been a lot written about the “traps and pitfalls” of buying at mortgagee sales. As with many things in life, doing your homework and being prepared will help you make a better informed decision. I suggest to you that the first step you should take when looking at buying at a mortgagee sale is to get an agent who understands these pitfalls and can guide you through the traps – so call me, that’s what I do.

The majority of mortgagee sales we see are by auction and generally require the signing of an unconditional contract on the day. This is where some of the issues arise and why it is important you have done your homework. Some of these issues are as follows.

- No scope for negotiation on the terms of the contract – so it’s really important to get someone who understands mortgagee contracts to review it and give you advice.
- Being unable to raise objections about the property title – so you should get the terms of sale reviewed by someone who understands them before the auction.
- No warranty or promise as to the building and its compliance with the Building Act or Code of Compliance Certificate requirements. You will need to check the LIM, the local Council’s records and get a builder’s inspection report beforehand.
- No guarantee of the property’s condition at settlement date. As the sale is for land and buildings only, not the chattels, you may find that the owner has removed the chattels or left the property in a worse state than when you last viewed it.
- No guarantee that the premises will be vacant on settlement. There may be tenants or even the former owner living there - if this is the case, you will be responsible for their removal, which may require an eviction order. For tenants, you need to ensure that there is no tenancy agreement before purchase.
- The sale may fall over if the registered owner repays the debt before settlement.
- Settlement can be delayed if there are claimants who allege an interest in the property e.g. a spouse or partner claiming a half share of the property. If the claim is valid, the bank would need to renegotiate with the claimants before the property could be sold.
- You are unable to sue the vendor for defaulting on settlement or late settlement.
- The bank/seller can place the insurance risk on the buyer when the auction contract is signed – you will need to have insurance organised for the day.
- Due to the unpredictable variables involved with a mortgagee sale, a bank may advise against and be reluctant to approve funds if over 85% of the value of purchase is being lent e.g. if you purchase a property and then find that the kitchen and bathroom have been removed (i.e. the chattels), the bank does not have the capacity to loan any further funds to rectify these, thus leaving the buyer potentially with an unlivable house.

This is a long list I know, but, with the right help and a diligent process you can weed out the good from the bad. If you need help with this process, then call me and we can work through it together.

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