

**GET YOUR HOUSE IN ORDER**

Home sales should hopefully be a successful process. But there are one or two major snags you might be wise to sort out beforehand.

**IS YOUR TITLE UNREGISTERED?**

If you acquired your property in Cornwall before 1988 and have not borrowed money against it since, the chances are that your title will be unregistered. This is not a problem in itself but some unregistered titles have been rather poorly prepared and are not up to modern standards required by the Land Registry.

Often plans are only hand drawn and not to scale. I had a case recently where a property was purchased some 30 years ago when the Title was unregistered and it remains so to this day. During the 30 years the owner had acquired parcels of land around the original property and those titles were registered. What we discovered when preparing the sale Contract and supporting documents was that the boundaries did not match each other and there was an area of "no man's land" which was not included in either the unregistered Title or the registered Title. A great deal of time and therefore money was expended in dealing with this problem and putting it right.

This could have been avoided if the owner of the property had sought legal advice before putting the property on the market, and the problem could have been sorted out by applying to the Land Registry for Voluntary Registration. Registration does of course involve professional fees and a fee for registration but nothing to compare with the time that was lost and the inconvenience to all concerned in the chain of property transactions depending upon the one with the defective paperwork being able to proceed.

My advice to you, therefore, is to check whether your Title is unregistered and ask your solicitor to have a look at it. There is also a great overall saving to be achieved because the Title will be contained in a single document rather than in many documents of an

unregistered Title. I had a case recently where a tiny cottage forming part of a farm yard had an unregistered Title which meant that the Home Information Pack came to no less than 193 pages. In fact the seller's solicitors had made a mistake because they should have registered the Title as a result of an owner dying in circumstances where registration of the Title became compulsory . The job took twice as long and cost twice as much as first estimated. The muddle caused the buyers to change their minds and buy elsewhere.

Not every unregistered Title will necessarily benefit from being registered in advance of a sale. But it is worthwhile checking before you go to market and getting involved in an extended delay whilst matters are put right. This can, of course, result in you losing your buyer and indeed the replacement property you wish to purchase.

### **NO BUILDING REGS APPROVAL**

It happens time and again that an owner has carried out work to their property and either did not know about or decided to take a chance on the obligation to obtain Building Regulation Approval. I am referring to here to such matters as extensions, loft conversions, replacement windows, even en-suite installations. There are numerous types of work where Building Regulation Approval from your Local Authority is required. This, like a defective unregistered Title, can cause delays and problems and may also lead to the loss of a sale or purchase and all for the want of getting it right in the first place. Take advice before you start works at home – it can prove to be a very expensive step to miss out when it comes to a later sale.

### **WHAT CAN YOU DO ABOUT IT?**

There are Indemnity Insurance Policies available on the market but they are so hedged about with conditions and limitations that you have to wonder whether you could even succeed in making a claim. The best answer is to apply to the Local Authority for a retrospective certificate to regularise the position although this of course may involve the cost of carrying out rectification work if the original work is not up to standard. Here the Council have to be notified and an inspection has to be carried out which will lead to a

Certificate that the works do comply with Building Regulation requirements and that there is no risk to health and safety.

We had a case recently involving the conversion of an attic where the staircase did not comply with fire regulations and the floor of the attic had not been sufficiently strengthened to comply with the requirements of a living room – the buyers decided not to proceed. We had another case where a garage had been converted into living accommodation but with inadequate provision for damp proofing and thermal insulation. There are obviously numerous possibilities which may only be spotted by a purchaser's surveyor when the legal transaction has got well under way. Months can be lost as a result and a property becomes un-saleable until the problem is put right.

**The message is clear**, as in the case of an unregistered Title, it is well worth your while having the property checked out before you put it on the market for sale if any work has been carried out for which Planning Permission and / or Building Regulations should have been obtained.

### **ACTION**

Buying and selling property can be, and very often is, an absolute minefield. I would urge you to seek good legal advice from a reliable source. Here at Busbys, I lead a team of dedicated professionals, with vast experience in every type of land transaction. We pride ourselves on our expertise and dedication to our clients' needs. Busbys also has the coveted Lexcel award. Lexcel stands for legal excellence, and it is a benchmark of quality provided by our profession.

If you need help with matters such as residential conveyancing, business leases and purchases, agricultural land purchase, hotel and pub acquisitions, and boundary disputes, contact me on 01288 35 9000, or email me at [david.helman@busbyslaw.co.uk](mailto:david.helman@busbyslaw.co.uk).

**David Helman, Solicitor & Notary Public, Busbys Solicitors, Bude & Holsworthy.**