

Exchange



Question: What is it?

It is a process of buying a property and to make it legally binding.

Question: Why do they call it an exchange?

You see, in all contracts in the world, you have only one contract, where both the vendor and purchaser signs on that one contract.

But in Australia, we are ingenious, we have 2 identical contracts. One contract is for the buyer to sign and one for the purchaser to sign. Once, both parties' signs on their respective contracts, it is swapped. This is known as exchanged.

Question: At what point in time does the agreement become legally binding?

The very moment, contracts are exchanged, it becomes legally binding on both parties

Question: What do you mean by the word "moment?"

The moment of exchange is when the salesmen date both contracts.

Question: Who does the exchange?

In the majority of cases, it is the real estate agent who does the exchange.

Please give me an actual scenario of the exchange process.

First of all, the agent will say to the buyer, "as you want to buy, I like you to sign here on this contract". "I also like you to give me a 0.25% deposit of the sales price". "Now that you have signed and have given me the deposit, I will get the vendor to sign on the second contract. This happens when he is available to come and see me".

"Now, if the vendor accepts your offer, then you are the actual buyer". "However, the vendor might not accept your offer. If that is the case, I will refund your deposit to you".

From the time the buyer signs to buy and the vendor sign to sell, there will be a time gap and this will cause anxieties, it makes your heart pump faster, wouldn't it?

Answer: Of course it does and that is what makes the buying process exciting and interesting. There are plenty of uncertainties.

Question: What if the vendor wants a higher price?



In that case, the vendor wouldn't accept your offer. There will be no agreement and therefore no deal. The real estate salesman then will try to renegotiate with you again.

As a buyer, I sign the contract first and it was taken by the salesman to do the exchange, in the interim, couldn't the salesman accept more offer from more buyers? Wouldn't then, the vendor would just have to accept the highest offer?

This is a good scenario and it happens all the time. You see, when our lawmakers came up with the contract agreement and the process, their thought that salesmen are 100% obedient and honest. Unfortunately, the world is no longer like that. Many salesmen now are more crooked than the politicians' noses.

Question: How can I be sure that I am the actual buyer?

You will have no certainty. You can only be sure once you have evidence of the vendor's signature, you've got the counterpart contract signed by the vendor.

Question: How do I get that evidence?

Once the salesman exchanges the contract he then will have 3 days to deliver the contract to your lawyer. Only when your lawyer receives the contract with the vendor's signature on it, then you can be sure that you are the actual buyer.

Question: It seems that the salesman is in total control and has all the power to manipulate, why is this happening like this?

Unfortunately, that is our system. It works well for the salesmen and he facilitates the deal. The government would not care as the government wants to make it more dynamic. All the government cares about is getting their stamp duty income.

Question: You said that the salesman has 3 days to deliver the contract; that means the 5 days cooling off period is now reduced to 2 days?

Unfortunately, that is the weakness of the system. Worst still, the salesman often would put the date of the day you sign and not the later day when the vendor sign. The date the vendor sign can be a few days later. By the time the exchange contracts are delivered at the respective lawyers' offices, you have no cooling off period left!

Question: Surely, this is not happening, right?

On the contrary, it is happening all the time. The government cannot protect you in every single step of your life. You need to be smart and have your own strategies.

As you mentioned that the salesman wants control, why would he agree to that arrangement?

Then it is your choice, you also should not fall in love too much with the one property. There are 9 million properties in Australia, be prepared to walk away and look for another property. You need to have guts. You need to have a clear head and stick to your plan.

However, if you are madly in love with a property, then the salesman will have the control you like a dog on a leash. It's your choice.

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