

Independent Legal Advice

What the heck is that?

You see, even some lawyers do not know what that is. Why do I say that? Well you see, I have sent people off to solicitors to get independent advice and often the solicitor or conveyancer would call me and say:

“I am not comfortable with this” or “What is the meaning of independent?”

Why are they asking this question?

You see, the word independent is vague. We associate the word “independent” with countries eg like an independent country.

To understand what “Independent Legal advice” is all about we need to ask:

Who demand an independent advice and why they want it?

You see, nearly all the time, it is the bank that wants to have an independent advice in a form of a certificate.

In what situation will you be asked to get an independent advice?

The bank makes it mandatory that you must provide evidence of independent legal advice when you act as a guarantor to a mortgage.

Example, your son doesn't have enough income or deposit or both-you are dragged and chained, and locked in.

That means if your son sinks in financially, you will be too.

That is serious? Yes, it is very grave.

But you love your son, right?

Of course, you do and you are willing to do anything to help the young lad.

So what is an Independent Advice Certificate to the bank?

Answer: The bank want a letter with a signature of a legal representative that is separate from the firm that is acting for your son.

Why it has to be a separate law firm?

Answer: The bank wants to avoid any conflicts and also to prevent you giving excuses later on if things go awry. You might say that it was a bias advice or that you have not given any

advice and that you are an old, frail man walking alone in the darkness of the mangrove forest.

What is the advice all about?

Usually, the advice will be given is that if your son does not pay his mortgage or he is in breach in any terms in the contract, you, as the guarantor will be liable to the bank. This means you can lose the shirt on your back and then you can be booted into the gutter. You will become a street urchin.

Who does the Independent advice protect?

Answer: It protects you as you now know the gravity of any breach. However, it also protects the bank.

Will the solicitor that sign the Independent legal Advice certificate will charge me a fee?

Answer: Of course he will.

