

Marketing Ploy-holding deposit

Agents always request a small deposit by the purchaser prior to exchange of the contract.

There is no legal basis for such a payment and it does not create any legal relationship between the parties.

[Legal basis only begin at exchange]

This is simply a clever marketing ploy.

The clever and cunning salesman often will say that this is a holding deposit.

This makes the purchaser think that they have a deal when in fact they might not have any deal.

The agent is free to sell to anyone else.

The term holding deposit was invented by the salesman and not by law makers.

Judges do not even know what it means.

However, most people, have been fooled by the agents, they think that they have secured the property.

In reality, the agent can take as many holding deposits as he wishes at any one time.

In the case of Sorrell V Finch (1976) the agent took 6 holding deposits and then disappeared.

Even the big land developer uses the term holding deposit because the term is so widespread. However, the bigger developers tend to have a bigger reputation and normally would not disappear with your money. They tend to honour the deal.

However, you must be wary of the real estate agents.

We estimate that 1 in 12 real estate agents would take multiple holding deposits at any one time.

Of course, there is only 1 property and not all the people that give a deposit can be buyers.

If you have been rejected, this is known as gazumping. This happens all the time. It's legal.

However, the government does nothing to rectify the unsatisfactory behaviour. They see that, the agent is, in fact, facilitating a sale and the more sales, the more stamp duty for the government.

This is absurd but please do not whinge to us. We are only a messenger. We didn't make the law. Your elected members of Parliament made the law. If you are violently against this, please organise a crowd and go to the Parliament House and demand the law be changed.

