

Under 18 years Old can own property

This is a little-known fact that a person under 18 years old can own property.

The law is concerned that a child under 18 years old might not understand his or her obligations or that the child will be cheated when buying a property.

This is where the law under s29 of the Minors (property & Contracts) Act, 1970 steps in.

Let's first look at why a child under 18 might want to have a property under his or her name.

In the majority of cases, it has to do with the love of the parents for the child.

Parents want to give assets to a child for love and affection and in some cases; it is to do with tax or financial affairs planning. The planning here is for taxation and land tax. To have all the assets in the parent's names alone may not be advantages as some might be paying more tax than necessary. That is why tax planning with the advice of a tax consultant comes in handy.

However, sometimes, parents have cash in hand and simply want to buy a property as a gift for the child.

In order for one to transfer the property to a minor under 18, the following conditions must be met:

1. The property must be fully paid off (no banks will lend money to a child under 18, even if the parents act as guarantors).
2. The child must see another solicitor that is not acting for the child in the transfer a Certificate Pursuant to section 29 of the Minors (Property & Contracts) Act, 1970.

What does the solicitor that gives the said Certificate has to be satisfied with?

He or she must satisfy the followings:

1. The child understood the true purport and nature of the contract.
2. The child is doing it voluntarily.
3. The price is not manifestly excessive.

Do you have to pay stamp duty?

Answer: It is compulsory to pay stamp duty. This is the rule set down by the Office of State Revenue, NSW (OSR).

If it was a normal purchase, stamp duty will be paid as normal.

(However, this rule can be changed at any time, so it is best to always check with OSR for updates).

Can I transfer to my child for \$2?

Answer: That is what most people do. However, you still have to pay stamp duty on the market value of the property. The market value is determined by a licensed and registered valuer by Office of State Revenue. It has to be one of their valuers.

Question:

The child is under 18 and he or she is a first home buyer, will the child get a grant and stamp duty concession?

Answer: You must ask the Office of State Revenue and they will determine that. This is rather a rare case. OSR rules do change regularly and it is advisable to contact them for the most accurate information.

