



Before you sign on the dotted line

Congratulations. You've knocked out the rival bidder, secured the private sale or negotiated with the developer.

But it's not over yet – you might be feeling good but the fact is, until you exchange contracts and settle, you won't officially be a proud new home or investment property owner.

And it is at this stage that buyers can encounter some of the biggest problems they will face. It is not uncommon for the fine print of a contract to include outrageous demands and/or key omissions.

The good news is that these are rarely deal-breakers, and with a bit of expert advice and some common sense, you can avoid 99 per cent of the rookie mistakes.

The first thing to remember is that contracts of sale are always geared in favour of the vendor (the person selling the property). Experts say doing the requisite due diligence and getting expert help early can save you a world of pain later.

Peter Kelaher, director of buyers' advocate PK Property, says that paying a lot of money for an expensive lawyer isn't necessarily the right way to go. Providing they are experienced, a conveyancer should suffice. "See a specialist conveyancer. They are more likely to be available when you need them and know the territory well.

"They are also going to be more affordable," he says.

What to look for

- Hidden penalties and levies.
- Body corporate minutes.
- Caveats and covenants.
- A reasonable deposit.
- Suitable settlement date.

Unless you are one of the lucky ones who has managed to secure the first place you fell in love with, it's likely that the fees you are paying for professional advice are starting to mount up.

Sam Lally, an experienced buyers' agent with Buyer's Advocate, recommends establishing an agreement with your solicitor or conveyancer in advance to keep a lid on costs. "Negotiate a deal for a flat fee, conditional on securing the property," he says. "That way you aren't out of pocket for every contract you scrutinise."

And scrutinise you should. While most contracts include clauses stipulating that penalty interest must be paid in the event of delayed settlement, some even try to include punitive measures.

Lally says that buyers should pay particular attention to penalty rates, and contest anything above 2 per cent.

"Some contracts may try to sneak in a rate of up to 18 per cent. If you see this, ask for it to be struck out or negotiate it down," Lally says.

If you are buying a unit or apartment, contracts require special attention. If a car park is included, you'll need to look for two titles under the particulars of sale.

You should be presented with copies of the most recent body corporate minutes. This is where you will find whether any levies are due to be paid for repairs or replacement. If some are due and they are of a substantial nature, you are within your rights to ask for these figures to be subtracted from the sale price.

But this stage of negotiation isn't just about looking for clauses designed to trick you. Often you involve the buyer, asking for terms to be amended in your favour.

Just because tradition states you need a deposit of 10 per cent to secure the property doesn't mean the vendor won't accept a smaller commitment.

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Smart Investor's residential property expert and buyers' advocate Richard Wakelinsays that for medium to longer-term settlements, smaller sums are often accepted.

"There's no point in putting \$100,000 or \$200,000 into a trust account for between three and six months when between \$30,000 and \$50,000 would suffice," Wakelin says.

Buyers of investment property can also make moves to ensure it is cash flow positive as soon as possible by introducing a clause to show prospective tenants through and rights to use photography used in marketing of the property.

"Typically we will negotiate access three to four weeks before settlement if even [for] 30 minutes a week," Wakelin says.

It's also important to be across the relevant cooling-off periods that apply within your state. Different states have different approaches to heritage overlays, so it pays to investigate this with the relevant local councils and state authorities.

Councils in particular are worth contacting to see if there is any development planned on the boundaries of your property. *JF*



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