

Offers to purchase don't always lead to property sales

In residential property deals there is a world of difference between an Offer to Purchase and an Agreement of Sale.

This is not always recognised by estate agents or the parties involved, nor do many seem to understand that such agreements can prove unsuccessful in many cases, says Wayne Albutt of Rawson Property Group. 'The simple fact,' says Albutt, 'is that some 70% of Offers to Purchase do not result in a sale and only just over 50% of Agreements of Sale, which require mortgage finance, actually result in a successful property transfer.'

The reasons for Offers to Purchase falling through, says Albutt, are almost too obvious to state, but it may help to review them.

'The most common cause of an Offer to Purchase not materialising into an Agreement of Sale,' he says, 'is that the offer is not acceptable to the seller because of its net price, or one or two of its terms, or one or more of the conditions being unacceptable. These could include the date of transfer, early occupation, occupational interest, undertakings by the seller, or the offer being subject to the sale of the purchaser's property, or other factors.'

Conversely, the failure on the purchaser's part to comply with his own suspensive conditions may also cause the Agreement of Sale to fall through, the most common instances being the inability to get mortgage finance.

When bond applications are unsuccessful, says Albutt, this is frequently due to poorly trained estate agents not fully understanding the loan to value criteria on which most banks operate or to their not qualifying the purchaser financially. In these situations, he says, a good bond originator is vital to both the purchaser and the estate agent.

Estate agents, he adds, are also sometimes to blame for a good Offer to Purchase being turned down by the seller because the agents lack of experience or have employed unethical tactics.

'Quite often when a seller has mandated several agents to market his property, he will then receive conflicting information from them. One agent may get in first with an Offer to Purchase and this may seem wholly acceptable to the seller but the information and advice of his rivals, which in these cases is almost always self-serving, will deter him from accepting the offer.'

Then, too, initially incorrect pricing by inexperienced rival agents can cause the seller to reject a good offer and in our experience can sometimes result in the property sticking on the market for a considerable time, to the frustration of the seller.'

Albutt warned that unethical tactics and the type of behaviour described tend to occur more frequently when the market is slanted in the seller's favour as it is these days in many South African suburbs.

Quite often, too, says Albutt, the seller may suddenly experience remorse and regret his decision to sell. In this event it is likely then he will use any excuse not to accept the Offer to Purchase, for example a demand for a few thousand rand more than the initial asking price or that a certain item or items in the home be omitted from the sale. This ends up embarrassing the agent and annoying the purchaser.

Even when an Agreement of Sale has been duly concluded in writing, says Albutt, including when the purchaser is a cash buyer, a fair proportion of these sales fail due to buyer's remorse and, without a deposit, a seller will have a frustrating time legally enforcing the Agreement of Sale. Most sellers will accept the situation rather than become involved in a lengthy legal battle.

A third reason for Agreements of Sale failing to take effect, says Albutt, is that the banks may fail to find the required value in the property, in relation to the mortgage required by the purchaser, and with property prices spiking recently in many metropolitan areas, this is becoming a common problem.

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