



Breaking the chain: why do Jersey property transactions fall apart?

Insights - 09/08/2018

Much focus has been given of late to gazumping and the potential pitfalls of the Jersey conveyancing process. Thankfully in practice the vast majority of transactions do eventually make it across the line and in most cases, completion occurs within the allocated window agreed through the estate agent at the outset. Gazumping, while a genuine risk, is fortunately an incredibly rare occurrence and despite being a hot topic of conversation, poses far less a risk to transactions than is generally made out.

There are however a number of issues which regularly crop up and cause delays to transactions, none of which are a result of the Jersey process and all of which can be mitigated (at least to an extent) by taking action early.

Money

It seems obvious, but securing your mortgage and arranging for financial transfers in good time are fundamental to hitting completion dates. Maneuvering through the red tape and hurdles in an increasingly cautious market make securing a mortgage and moving monies (particularly from investments) more difficult than ever. It's incredible how often people make offers on properties before checking that they have the financial ability to do so, particularly in the short time frame for completion (normally 4-6 weeks).

The term "cash buyer" is a frequent cause of transactional headaches. The term is often confusingly used for those who are simply not involved in a chain, but who may still need a mortgage to purchase a property.

Solution:

Think ahead, sort your finances well in advance and this will allow plenty of time for a smooth and transparent run up to completion. Vendors (particularly those in chains) should ask for confirmation of the purchasers' financial situation early in the transaction, to avoid surprises

further down the line.

Survey

It is strongly recommended (or required if you are borrowing money from a bank) that you appoint a surveyor to carry out a detailed survey of any property which you are to buy. Typically, a basic homebuyer's survey will take 4 - 6 weeks from the date of instruction. Bear in mind that your lender will normally insist on appointing a surveyor from its own panel and that this process will not happen until you are sufficiently progressed with your loan arrangements.

In nearly all instances where a "last minute" price reduction is requested, it is as a result of an issue that has been identified in a survey. Significant issues can also lead to the requirement for additional specific surveys which can delay a transaction further.

Solution

Vendors should be pragmatic and realistic. If you are looking to sell a property and know there are issues, or potential issues, have an expert look in to the matter in advance, or commission your own survey so that you are fully informed on the matter. Purchasers should commission any survey as quickly as is possible, to ensure that they receive their report well in advance of completion.

Boundary encroachments

Jersey has a number of specific rules when it comes to boundaries which can cause a headache when you come to sell. There is no automatic right of access on to a neighbouring property in order to maintain any building or structure which is located near to a boundary. All too often, extensions are established right up to a boundary, without the necessary contractual rights to do so. This is unlikely to be picked up until you come to sell your property, at which stage it can cause a substantial and expensive issue to remedy.

Solution

Vendors should give their lawyer notice well in advance of a sale and highlight any potential issues, so that they can be addressed in early course. Purchasers will see the property during their viewing (weeks before their lawyer) and should keep an eye out for anything that seems to be a new construction or any buildings that are in close proximity to a neighbour and let their lawyer know any concerns.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to

all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Key Contacts



[Charles Le Maistre](#)

Managing Conveyancer

[Jersey](#)

E: charles.lemaistre@ogier.com

T: [+44 1534 514097](tel:+441534514097)

Related Services

[Channel Islands Local Legal Services](#)

[Property law](#)