

Who are Conveyancing Attorneys and Why Do You Need One to Transfer Your Property?

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WHAT IS A CONVEYANCER?

A Conveyancer is an Attorney who has written and passed exams to specialise in property law. When we speak about property in this article we are speaking about immovable property, being the property in which you live and no other forms of movable property such as your car. To qualify as a conveyancer, one must first become an attorney.

WHAT DOES A CONVEYANCER DO?

A conveyancer deals with all matters related to property law and Deeds Office transactions. The Deeds Office is a government institution that records ownership of property and other rights related to property. The practice of conveyancing is not limited to the transfer of residential property however this article will only deal with the Conveyancer's role in the transfer of residential property.

Most people will deal with a conveyancer when they buy or sell property or when they register a mortgage bond over their property. Once property has been sold a conveyancer will be required to transfer the property from the Seller to the Purchaser and if necessary register a mortgage bond so that the Purchaser can pay for the property.

The conveyancer will draw the documents that are needed to transfer a property or property right from one person to another and will make sure that the laws related to property transfers are complied with. The conveyancer will ensure that the agreement of sale is followed by both parties.

WHY ARE CONVEYANCERS NECESSARY?

For most people, owning property will be their largest and most important investment. Property is also the most expensive asset most people will ever own. Our property registration system is one of the safest and best in the world. Conveyancers are an important part of this registration system.

In terms of the Deeds Registries Act, only Conveyancers may sign and prepare the documents needed to transfer property or register a mortgage bond. The Deeds Office does not have the capacity to check every single fact related to the property, the Purchaser and the Seller so when the conveyancer signs the Deeds Office documents, the conveyancer accepts responsibility that the documents are correct, that the Seller owns the property, that the Seller and Purchaser have the contractual capacity to sell and buy the property and that the transaction is correct in all respects.

WHO CHOOSES THE CONVEYANCER AND WHO PAYS THE CONVEYANCER?

The Seller chooses the conveyancer who will transfer the property. The conveyancer works towards the positive goal of transferring the property. The conveyancer will represent both parties to reach this goal. If the parties become involved in a dispute however the transferring conveyancer will represent the Seller.

The Purchaser may choose the conveyancer who will register the mortgage bond. The bond conveyancer does not represent the Purchaser but will rather represent the bank that has granted the mortgage bond.

In our system of property transfers the Purchaser pays the conveyancer's costs, these being the transferring conveyancer's costs and the bond conveyancer's costs. The costs are based on a tariff recommended by the Legal Practice Council.



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