



NO PENDING DEALINGS

The relevant requisition in the Law Society's requisitions on title is "Have any dealings been registered in the folio or are any dealings pending which are not shown on the folio furnished?". This requisition appears to have given rise to the practice of vendors' solicitors being asked to furnish a certificate that there are no pending dealings. Although the requisition and the resulting obligation on the vendor's solicitor was intended to apply only to specific cases, this is not clear from the requisition on title, and, as a result, solicitors have been asked for this certificate in all cases involving registered land.

Practitioners should be aware that this certificate should be requested only in cases where portion only of the vendor's land is being sold. Its principal purpose is to assure the purchaser that no pending dealings relate to lands being sold to the purchaser. Strictly speaking, the correct wording on the certificate should be that "none of the dealings pending (if any) affect the site in sale to the purchaser". This certificate can of course only relate to the facts within the knowledge of the solicitor giving it and should be so qualified. There could be dealings pending on the folio of which the vendor's solicitor was unaware. The Committee therefore recommends that these certificates should be given in cases of sub-division only and should not be asked for or given in cases of the sale of all of the lands on the folio. This recommendation should be read in conjunction with the practice note published with the January/February issue of the Gazette 1982 relating to undertakings to discharge queries.

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UPDATE: This Practice Note should also be read in conjunction with the Practice Notes at page 3.26 and page 3.30 hereof.

SECTION 72 DECLARATIONS; SECRETARIAL COMPANIES

The Conveyancing Committee was asked to give a view on the acceptability of a Section 72 Declaration made by an individual as Secretary of a Secretarial Company which in turn was the Secretary of the land owning company. The Committee's view was that a Section 72 Declaration could properly be made by a Director as the Secretary of a Secretarial Company in such circumstances.

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