



House loan mortgage deeds often now secure for the lender not only the house loan but also any other monies that may be owing by the borrower to the lender, such as monies owing by a borrower on a current account with a bank lender.

A bank, on being asked for mortgage redemption figures, may simply advise the amount due on the house loan. The Bank may later decline to furnish a release of the mortgage/mortgages following receipt of the house loan liabilities on the grounds that there are other liabilities secured by the mortgage deed/deeds. By the time the vendor's solicitor realises that payment of the home loan liabilities does not discharge all liabilities secured by the mortgage deed/deeds, the purchase monies are likely to have been paid out and the vendor's solicitor may be in a position of having to honour an undertaking to furnish a release or vacate of the mortgage or mortgages which the purchaser's solicitor would perhaps have sought and accepted on the closing of the sale.

Where the vendor's property is subject to mortgage, the vendor's solicitor should obtain from the mortgagee a statement of what monies the mortgagee states are required to redeem the mortgage or mortgages and an undertaking from the mortgagee that on payment of the amount stated the mortgagee will furnish a release or vacate of the mortgage or mortgages.

UPDATE: Under the Housing Act 1988 all lenders may (but it is not compulsory except for local authority lenders) issue a vacate rather than a release.

But, as indicated above, if there are other loans apart from the housing loan affecting the property the bank will invariably insist on granting a release of the property only. A vacate on the mortgage deed is not sealed (as to do so would be to acknowledge that all monies were paid) and the mortgage deed is retained as security for any other monies due. It should be borne in mind that the release must be dated on or before the date of the deed of assurance from the vendor to the purchaser. Otherwise the legal estate is outstanding, but, in this regard, see the Practice Notes entitled "Feeding the Estoppel/Vacate/Release" at page 11.1 supra. and the Practice Note entitled "Feeding the Estoppel" at page 11.9 supra. with the respective notes updating same.

RELEASE OF BANK MORTGAGES