



An extract from the Special Conditions of a Contract for the purchase of new houses built under the Dublin County Council “Small Builders” Scheme was submitted by a firm of solicitors to the Conveyancing Committee for consideration, the extract reads as follows:

“Delays may occur in obtaining the Transfer and other Documents of title from the County Council, but notwithstanding the Employer shall complete this transaction by way of bridging finance within seven days of being notified by the Contractor or by his solicitor that the premises have been so completed and shall accept an undertaking from the Contractor’s solicitor that they will furnish the transfer duly sealed by the County Council together with the other relevant documents when received by them from the County Council”.

The Conveyancing Committee considered that this clause is unfair and improper and should not appear in the Special Conditions of any contract; it is further recommended that no solicitor should give or ask another solicitor to accept an undertaking to furnish a transfer duly sealed by any County Council.

The clause creates an impossible position for purchasers solicitors who, in giving the normal form of undertaking for bridging finance, would be in breach of the terms of that undertaking in that bridging finance would be used to close the transaction and on closing no documents or title would be furnished by the Vendor’s solicitor to be held by the Purchaser’s solicitor for the Bank.

COMPLETION BEFORE ASSURANCE

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In recent years the practice has developed that Vendors accept deposits of 10% on the execution of Contracts for the sale of property by private treaty.

As most Purchasers are dependent on 90% loans to enable them to complete their purchases, the Conveyancing Committee of the Law Society recommend that this should become standard practice, except in exceptional circumstances, such as where there is a long closing date or a purchase in trust for an undisclosed principal or the purchase price is small.¹

10% DEPOSIT ON EXECUTION OF CONTRACT

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1. See page 12.3 hereof