



It is the view of the Conveyancing Committee that every purchaser of a property should be advised in writing to have the structure of the building checked out either by a qualified engineer or architect. It would be prudent for solicitors not to recommend any one particular architect or engineer but rather that clients should find for themselves the person with the necessary qualifications to give them a satisfactory report. If solicitors fail to give clients such advice and it subsequently transpires that it costs the clients a lot of money to carry out work to the structure that they did not take into account when they decided to buy the house, they may issue proceedings for negligence.

Furthermore, if clients query the advice of solicitors to have the house checked out by an engineer or architect and make the point that the house will be inspected in any case on behalf of the Building Society, solicitors have an obligation to point out to them that Building Societies send out their valuers mainly to establish the value of the property in relation to the security which they are taking on it. The Building Societies' surveyors are contractually bound to the Building Society and not to the house purchasers. On the basis of existing Irish court decisions purchasers have no privity of contract with the Building Societies' surveyors and therefore cannot sue them.

There is no point in solicitors just verbally advising clients to get such a report done; it is important that it should be put in writing. Obviously, other areas of concern arise i.e. dry rot, dampness etc. but an architect or engineer who is properly qualified will advise that further experts be retained to advise on these areas should they become evident from an inspection. In addition to the actual structure any services relating to the house and, in particular, where there is a septic tank, should also be examined by the expert.

THE DOCTRINE OF CAVEAT EMPTOR WITH REGARD TO THE STRUCTURE OF A PROPERTY