



Delivering Solutions Since 1974

Q&S CONVEYANCING UPDATE

ISSUE 26, 7 MAY 2009

PURCHASE OF LAND BY MINORS

We are often asked by agents if a minor (i.e. a person under the age of 18) can purchase property.

The common law position is that a minor can enter a contract for the sale or purchase of property.

However, the minor may at his/her option avoid the contract either before or within a reasonable time after the minor attains the age of majority.

Under the UK system there is a statutory prohibition against minors acquiring an interest in property.

The Queensland system allows for the sale and purchase of property but is subject to the common law position as set out above. This will leave the party on the other side of the transaction in a precarious position.

Where land is acquired by a minor, section 28 Land Title Act 1994 requires the Registrar to record the date of birth on the title which will forewarn buyers that they will be dealing with a minor. The Titles Office will glean this information from the Form 24.

Section 16 Property Law Act 1974 states that the parties to a conveyance will be presumed to be of full age or such other age as to have capacity as at the date of the conveyance. Given the contents of this section (and notwithstanding the slightly curious reference to "or such other age as to have capacity"), it would be prudent for a buyer who is a minor to disclose his/her age to avoid a claim of misrepresentation or misleading/deceptive conduct.

Such disclosure should be considered in a sale as it is may be the case that a contract is entered into before a title search is obtained revealing the age of the seller.

Duncan Murdoch, Partner, Quinn & Scattini Lawyers

If you would like to ask any question about this or any other similar issue Duncan may be contacted on 3221 1838 between 8.30am to 5pm Monday to Friday.

In addition to residential and commercial Conveyancing services, our team of experienced lawyers practice in Business Law, Commercial Litigation, Property Law, Wills & Estates, Criminal Law and Family Law.

Offices at:

Brisbane
Level 28 Central Plaza One
345 Queen Street
Brisbane

Beenleigh
99 George Street
Beenleigh

Caboolture
9 Elliott Street
Corner Morayfield Road
Caboolture

Cleveland
141 Shore Street West
Cleveland

Gold Coast
64 Marine Parade
Southport

Ipswich
55 Limestone Street
Ipswich

Telephone
Freecall 1800 652 969

mail@quinnscattini.com.au
www.quinnscattini.com.au

