

# Q&S CONVEYANCING UPDATE

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## PURCHASER RISKS BEING ACCUSED OF STEALING ABANDONED CHATTELS

A client who purchased a property recently asked us if they could keep the chattels (not included in the contract) that were left on the property by the sellers.

The parties had verbally agreed that the sellers could remove their chattels after settlement but no later than the end of the weekend.

The contract was an ADL Forms contract for the sale of house and land which stated that:

- property not removed prior to settlement is deemed abandoned;
- may be dealt with by the buyer in any way the buyer considers appropriate without obligation to account to the seller;
- any costs incurred by the buyer dealing with the property may be recovered.

A strict interpretation of the terms of the contract would have given our client the right to keep the chattels, but we advised our client that as a result of the verbal agreement the sellers could argue:

- that time was no longer of the essence; and/or
- our clients had waived their rights under the contract.

If our clients had kept the chattels then the sellers may have reported their actions to the police and in a worst case scenario they could have been charged with and convicted of stealing. Although it is a defence to a charge of stealing that the goods were taken in an honest but mistaken belief that a party had a right to them, the inconvenience, angst and cost associated with being charged is something to be avoided.

We therefore advised our client that they should act cautiously when dealing with abandoned chattels and recommended they:

- Give the sellers notice in writing to remove the chattels within a reasonable time (14 days) failing which they would exercise their rights under the contract; and
- Obtain a quote for the removal and storage of the chattels to quantify their damages.

If the sellers had complained then our clients would have a paper trail showing they acted reasonably. The sellers responded to the notice and came and collected their chattels and a problem was averted.

**Richie Muir, Solicitor**  
**Quinn & Scattini Lawyers**

If you would like to ask any question about this or any other similar issue Richie may be contacted on 3821 2766 between 8.30am to 5pm Monday to Friday.

This update is for your information and interest only. It is not intended to be comprehensive, and it **does not constitute and must not be relied on as legal advice**. You must seek specific advice tailored to your circumstances.

*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.*



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