



Q&S CONVEYANCING NEWS

ISSUE 4, 12 MAY 2008

“SALE OF A PROPERTY AFTER DEATH OF A CO-OWNER”

A Real Estate Agent recently enquired how he should proceed with the sale of a property after the recent death of one of the co-owners. Agents should be aware that a property can be listed for sale and sold immediately pending an update to the title.

Timing

The delay in updating the title will depend on whether the registered proprietors are tenants in common or joint tenants. The following timeframes are an indication only:

1. Issuing of death certificate – 6 weeks
2. If joint tenancy: registration of record of death – 2 weeks
3. If tenants in common: registration of transmission by death – 8 weeks (delay due to advertising)

Execution of Contract

The Seller will be the surviving registered proprietor(s) and the legal personal representative of the deceased who must both sign the Contract and any PAMDA forms.

If there is a Will then the Contract should be signed by the Executors under the Will who should be identified as “Legal Personal Representative of the late ... (insert name of deceased)”.

If there is no Will, then the Contract can be signed by the Administrator of the Estate who should again be identified as “Legal Personal Representative of the late ... (insert name of deceased)”.

Special Conditions

We suggest inserting the following special condition:-

“Registration of title in name of Legal Personal Representative

- A. *This Contract is subject to and conditional upon the Seller becoming registered on the title and Personal Representative of*
- B. *Settlement will be 14 days from written notification by the Seller’s Solicitors to the Buyer’s Solicitors that registration in terms of Special Condition A has been effected*
- C. *The Seller will use his best endeavours to have his appointment as registration as Legal Personal Representative effected in a timely manner.”*

Agents should be aware that updating a title following the death of a co-owner can be a lengthy process. Our Wills and Estates Team, led by Russell Leneham, specialise in updating title registration in these matters. Russell can be contacted on 07 3807 7688.

Quinn & Scattini Lawyers has offices in Brisbane, Beenleigh, Caboolture, Southport, Ipswich and Cleveland. 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 4000
Telephone: 07 3221 1838

Beenleigh

99 George Street
Beenleigh 4207
Telephone: 07 3807 7688

Caboolture

9 Elliott Street
Corner Morayfield Road
Caboolture 4510
Telephone: 07 5499 3622

Cleveland

141 Shore Street West
Cleveland 4163
Telephone: 07 3821 2766

Gold Coast

Level 2, 64 Marine Parade
Southport 4215
Telephone: 07 5564 0200

Ipswich

55 Limestone Street
Ipswich 4305
Telephone: 07 3202 3177

Telephone

Freecall 1800 652 969

mail@quinnscattini.com.au

www.quinnscattini.com.au

