

But for the Plan

Real Estate Sale - When the Buyer Can't Close on Time

Mr. and Mrs. Shaw (not their real names) were both retired and in their seventies when they signed an agreement to sell their Oshawa home in the summer of 2017. They had previously purchased a home using bridge financing, to be repaid from their sale proceeds.

Unfortunately, the buyers were unable to close the transaction, only paid \$10,000. of a \$20,000. agreed-upon deposit, and requested an 18 day extension of the closing date. Very disappointed, the Shaw's sought advice from both James Gorycki and Robert Banik of our Oshawa Staff Office - real estate and litigation lawyers, respectively - who told them that they had two choices:

1. Grant the extension, and hope the buyers would purchase the property, or
2. Terminate the transaction, hold the buyers in breach of contract and liable for damages, and re-list the property for sale.

To add to the difficulty of their decision, the real estate market was starting to cool off, their real estate agent advised that if they re-sold it would be for approximately \$100,000. less, and the \$10,000. deposit provided small assurance of recouping potential losses.

Following the advice of their lawyers, who felt that re-listing as soon as possible was a wise first step, our clients elected to terminate the deal and hold the buyers in breach of contract.

The strategy worked well. The original buyers approached our clients a couple of weeks later, and after extended negotiations the property was sold to them at the original purchase price. Adjustments (e.g., for insurance premiums, property taxes etc.) remained as of the original closing date, as did the clients' right to sue if the new agreement fell through.

The whole experience was very stressful, and our clients were very appreciative, as can be seen from the two emails they sent to James Gorycki and Robert Banik, respectively, excerpted below:

"You were wonderful to us with your great knowledge and experience, but most of all with your warm heart and kindness. You helped us to go through perhaps the worst experience of our lives. Thank you from the bottom of our hearts."

"Please accept heart-felt gratitude from two formerly distressed and bewildered clients. Thanks be to God all turned out well for us. Thanks to your excellent advice we came out of our predicament without a scathe."

But for the Plan, and the personal attention our clients received from our staff, the deal may not have closed at all, and the entire experience could have been much more stressful.