

## **TO OCCUPY OR NOT TO OCCUPY**

Before a Deed of Sale for a house is concluded between the Seller and the Purchaser, the parties must agree as to when occupation is to take place.

Usually occupation takes place when money changes hands i.e. on date of registration of transfer in the Deeds Office. If that is the case the conveyancer attending to the transfer must keep the parties informed regarding the progress of the transfer and give them an accurate estimate as to when registration is expected. This will ensure a fairly smooth transition into the new house.

However, occupation does not always take place on date of registration in the Deed's Office. Sometimes the Purchaser wants to occupy the property earlier. In such an instance it is important to that the parties agree prior in writing what the monthly occupational rent will be. This will also be the case where the Seller wants to remain in the house after date of registration of transfer with the added duty namely: for what period can the Seller remain in the house after date of registration in the Purchaser's name.

It becomes more complicated once the Purchaser wants to occupy the property earlier because he or she wants to effect renovations to the property before registration takes place in the Deeds Office.

In such an instance the Seller must protect him or herself and demand that he or she be indemnified and held harmless against any claims that may arise, for example: should the transaction be cancelled due to the fault of the Purchaser after renovations have been effected but before registration takes place, the Purchaser may demand to be compensated for the renovation expenses and improvements to the property which compensation the Seller never contemplated. Similarly the Purchaser wants to be compensated for his or her expenses should the transaction be cancelled due to the fault of the Seller.

The parties to the Deed of Sale can avoid unnecessary delays in the registration process as well as unnecessary complications if they address the occupation of the house in writing beforehand and use the appointed conveyancer to assist them in this regard.