

STEP-BY-STEP

Registration of Transfer to be effected by Conveyancers (an important and highly responsible task)

Once the Deed of Sale has been received from the Estate Agent, or drawn by the Conveyancers they:

1. Open a file.
2. Draw up a list of all particulars required in the registration process. These will include the date of sale, purchase price, full names, addresses and telephone numbers of the parties, the names of the Legal Practitioners handling any simultaneous transactions, the name and particulars of any Estate Agent involved, the amount of commission payable, etc.
3. Obtain copies of the identity documents and marriage certificates of the parties.
4. Ascertain whether there is a bond over the property, and if so, in favour of which institution. In the event of there being a bond, send a fax to the Bank and request cancellation figures and the relevant title deed. Also request the Bank to advise who will be attending to the simultaneous cancellation of the existing bond. If there is no bond, obtain the Title Deed from the Seller. Be especially careful when transferring Sectional Title Units. There is very often an exclusive use area which will also need to be addressed and the rights to be ceded.
5. Ascertain from the Purchaser whether he has been granted a loan. If so, contact the relevant Bank for particulars of the amount of the loan, and the Legal Practitioners attending to the simultaneous registration of the new Bond. In many instances you will be told that this is a "cash transaction", but it very seldom is. Mostly, it simply means that the Purchaser has made preliminary arrangements for financing from a banking institution.
6. Contact the Legal Practitioners who will be attending to the cancellation of the existing bond and determine what guarantees they require.
7. Contact the Legal Practitioners who will be attending to the registration of the new bond and request the relevant guarantees from them.
8. Do a Deeds Office search to ensure, inter alia, the correctness of the description you have received and that there are no further endorsements on the Title Deed. Ascertain there are no restrictive conditions, and if any, address those restrictions.
9. Draw the transfer documents and have them signed as well as a statement of account for all fees and disbursements and request payment thereof from the Purchaser before lodging the documents for registration.
10. For all properties changing ownership, a clearance certificate must be obtained. Write to the relevant local authority to obtain a clearance certificate. It can take more time than expected to obtain a clearance certificate from the Local Authority, so it is a good idea to apply as soon as possible so that the registration of transfer will not be held up.
11. The transfer documents include:
 - Power of Attorney to give transfer.
 - Transfer duty Declarations: if the value is not market related obtain a sworn valuation to be lodged with the Declaration.
 - Marital status Affidavit by both Seller and Purchaser.
 - Solvency Affidavits by both Seller and Purchaser.
 - Original Title Deed.
 - Clearance Certificate.
12. Lodge with the Receiver of Revenue:
 - Declaration by Seller, Declaration by Purchaser and a copy of Deed of Sale.
 - A Legal Practitioners trust cheque in favour of the Receiver of Revenue for the amount of transfer duty payable. The transfer duty receipt should be available within two to three days. If however, the Seller is registered for VAT and the property is not a residential property, unless it is sold as a going concern, in which instance the Receiver is requested to approve a zero rate supply.

Draw a new Deed of Transfer.
13. When guarantees are received from the Legal Practitioners attending to the registration of the Bond, send the original (make a copy for your file) to the Legal Practitioners attending to the cancellation of the Seller's bond.
14. The documents are ready for lodgement in the Deeds Office when:
 - the Legal Practitioners attending to the cancellation of the existing bond are ready to lodge their documents;
 - the Legal Practitioners attending to the registration of the new bond are ready to lodge their documents;
 - the Conveyancer is in possession of the clearance certificate from the Local Authority; and
 - the Conveyancer has received the transfer duty receipt or transfer duty exemption from the Receiver of Revenue.

15. The transfer documents, bond cancellation documents and bond documents are linked together, and lodged in the Deeds Office on the same day.
16. After approximately eight to ten working days the documents will appear in the preparation room in the Conveyancers' pigeon hole with any queries (notes). Once the queries have been dealt with, or if there are none, the batch of deeds will go to the execution room the following morning where they will be executed before the Registrar of Deeds. The new deed will be delivered five to ten days after registration.
17. It is of the utmost importance that a Conveyancer keeps his client informed of all progress as this "client service" is often all that distinguishes one Conveyancer from another in the client's eyes.