



Buying a property at auction

Things you need to know BEFORE the auction day

Buying a property is perhaps one of the most important financial decisions of your life. It can often be an intimidating process, especially at auction where you are competing with other buyers and there is no cooling off period. If you purchase a property privately, and not through an auction, then the law permits you 3 clear working days to terminate the contract, with only very minor financial imposition. The property purchased at auction cannot be bought subject to any conditions such as securing finance from your lender or subject to inspect of the property by a builder and/or architect.

Many properties are sold at auction, particularly in a rising market, so it is important for buyers to understand the processes involved so they can bid confidently on the auction day.

There are many things that need to be done **before the auction** to ensure that your interests are protected and that you are fully informed about the property you are intending to buy, these things are outlined below.

Contract Review

The **most important** thing to do is to bring the contract of sale inclusive of the Section 32 Statement to us well before the auction date. RRR Lawyers have been undertaking commercial work such as conveyancing for the last 30 years. The firm has a legal practitioner who specialises in conveyancing namely Rajvee Kapadia. Prior to Ms. Kapadia joining this firm she worked exclusively in the area of conveyancing with a well-known property law firm in the city.

RRR Lawyers will review the contract and Section 32 Statement, advise you of any risks and help to protect your interests by identifying any terms that might need to be negotiated on your behalf or that you wish to have altered, for example; longer settlement periods, reduced deposits and/or additional terms and conditions. Alternatively, we may be able to advise you of restrictions applying to that particular property, which may be an imposition of Council rules preventing two dwellings on one block or the substantial part of the property containing an easement, being a right of access retained by including water authorities, electrical authorities etc. In the circumstances, you would be prevented from building any property over the easements. In the event that you are planning to subdivide the land or put an additional dwelling on the property, the purchase of that land/property will not assist you with that endeavour, and you will be advised accordingly.

RRR Lawyers will also make sure you are buying exactly what you intended to and that it is in the condition you expect by arranging any pre auction inspections that should be carried out such as building and pest inspections.

If you are the successful bidder at the auction the reviewed contract can be signed with confidence.

Inspect the Property

You should thoroughly inspect the property before the auction day and satisfy yourself that all inclusions are in proper working order and that the gas, water and electricity are functioning properly.

If you are successful on the auction day you will be buying the property 'as is', and will be required to pay a 10% deposit and the balance at settlement. If you cannot come up with the 10% deposit, the vendor will be able to issue proceedings and make a claim against you for the deposit, and potentially even further payments for loss and damages.

Research

Thoroughly research the area and surrounding suburbs before the auction day, so that you are comfortable about the amount you are prepared to pay for the property, and can bid confidently.

Finance

Make sure that you have your finance in order before making an offer. If you are obtaining mortgage finance, you should have your finance unconditionally approved (not just pre-approved). Confirm with your lender the maximum amount you can borrow.

Pre-approval is not confirmation of how much the lender is willing to provide you, it is an indication of what you might be able to borrow depending on the value of the property, determined by a formal valuation appointed by the vendor after the auction. Furthermore there may be additional conditions on the pre-approval such as providing proof of additional income disclosed in the application.

It is important to ensure that you have adequate funds available to complete the purchase within the timeframe stipulated in the contract. In addition to the purchase price sufficient allowance will also be made for the stamp duty and legal expenses. Please feel free to contact RRR Lawyers to secure information as to the amount of stamp duty and other amounts payable. If you are borrowing funds from a financial institution, the lender will reduce the available loan amount by deducting the applicable stamp duty, registration, and perhaps their own application and valuation fees. This will bring down the total loan funds available for you to apply towards the sale. Consequently you may require more funds than you may have initially thought.

Register to Bid

To participate or bid at an auction, buyers must register with the selling agent and be given a bidder's number. You can register with the selling agent at any time prior to the auction, such as when you inspect the property, or on the day itself.

To register you must provide ID, a card or document issued by government or a financial institution showing your name and address, for example:

- driver's licence or learner's permit
- vehicle registration paper
- council rates notice.

If you do not have this kind of proof of identity you can use two documents that together show your name and address.

Reserve price

Before auctioning a property, the seller will nominate a reserve price, which is usually not advertised. If the bidding continues beyond the reserve price, the property is sold at the fall of the hammer.

Bidding

Make sure you have a strategy going into the auction and that you set yourself a maximum purchase price. Stick to that maximum price. If you feel as though you may be too emotionally attached to bid at the auction yourself, then organise with the Agent to have someone bid on your behalf. If you elect to do so, you must provide a written signed authority to the Agent authorising the person to bid on your behalf.

Successful Bidder

If you are the highest bidder, immediately following the auction, you will be asked to:

- provide our contact details to the Agent;
- sign the contract of sale; and
- pay the deposit.

You will be entering into an unconditional and legally binding contract, and there is no cooling-off period.

The signed contract will then be delivered to our office and we will contact you to discuss the next steps.

Conclusion

Getting the right advice, being fully informed and prepared before the auction day is a critical part of ensuring that the purchase of your next (or first) property runs smoothly.

The purchase of a property, at auction or otherwise, should not be too stressful and our expert team can help guide you through the process and make sure your interests are protected.

If you or someone you know is looking to purchase a property at auction and needs help or advice, please contact us on 03 9387 2424 or email info@rrrlawyers.com.au.