



Guide for selling a property, what you need to know

Who are kerrypropertylaw.ie

Kerrypropertylaw.ie are a progressive firm of solicitors with extensive experience in property law. With offices in Killorglin, at the heart of the County Kerry they offer detailed knowledge of legal property matters all over the county. Operated by Colm Kelly solicitor, the firm deals with residential and commercial property, property litigation and the full suite of land registry work.

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Selling your property is a very significant event and involves a new chapter in anybody's life. It can be bitter sweet in that there can be a gain or profit on a sale of a property but it can mean the moving on from a community where you have developed friends and connections over many years. The key with effectively selling your property as quickly as possible is preparation, and more preparation. In this guide we will set out some of the key legal issues that arise in selling a property.

Putting together your title

Title to a property consists of two core issues; mainly ownership and enjoyment. We tend to find that demonstrating ownership of a property is not particularly problematic but difficulties can arise with respect to the enjoyment associated with a property. Here are some easy steps you should consider:-

1. **Where are your title documents?** Your title will be evidence of your ownership which will be either a Land Registry Folio or a series of documents known as a chain of title. Also your title will consist of planning permissions, evidence of use of services, documents relating to Rights of Way, documents relating to Local Property Tax and other elements.
2. **Where are these documents?** Do you have them at home? Are they with your solicitor? Are they with your lending institution? Before you begin to think about selling a property you must locate these documents.
3. **What to do if you are not the registered owner?** It can be the case that you are not the registered owner of your property even when you come to sell it. That means that you do not have a Folio in your name registered in the Land Registry. There could be several reasons for this but it must be investigated. It may be that your evidence of ownership is still pending in the Land Registry. There may be some mistake with registration. Your document of title may not have been submitted to the Land Registry. Generally all these issues can be resolved.
4. **Planning Permissions.** Are you confident that your property was built in compliance with planning permission? This is a core area. We would strongly advise that you engage an engineer prior to sale to do a full and thorough investigation of your planning. In particular, if your property is a one off house in the country outside of a town area you must ensure that the septic tank has been constructed in compliance with planning.
5. **Other Planning Matters.** Have you looked at any extensions or other developments on your property since you bought it? Did you build a shed, sunroom, or conservatory? Did you convert any of the attic area? If any of these issues arise then you may have to examine whether or not you should have applied for planning permission for these works. Some of these works will be exempt but not all. This must be examined.
6. **The Septic Tank.** If you do not have public sewage, you will have to consider the issue of your septic tank. With respect to your septic tank we would strongly advise that it is cleared out prior to sale and that the junction points and piping are available for inspection and that all other scrub is cleared from the septic tank area to allow an inspection. You need to register your septic tank with an organisation known as "Protect Our Water"; see www.protectourwater.ie

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7. **Boundaries.** You will need to determine whether or not the boundaries on the ground match that in your Land Registry title. It is vitally important that this is examined. An engineer should be appointed to look at this.
8. **Access.** Does your property abut the public road. If not you will have to take steps to ensure that you have adequate legal access to your property. You may need to register a right of way of adjoining lands and this is an issue that must be dealt with at the outset.
9. **NPPR.** There was a tax in Ireland known as the NPPR or Non Principal Private Residence Tax. This applied for the period between 2009 and 2013. It applied if you were not living at your property as your home for that period. Even if you were living in that property as your home you must focus on the issue. Either you must prove that you have paid your NPPR or that you must demonstrate that the NPPR did not apply. This must be dealt with as soon as possible as it can be a cumbersome and delaying process.
10. **Local Property Tax.** Is your Local Property Tax up to date: Is the property registered for Local Property Tax? You will need evidence of the account paid up to date.

In selling a property you request your solicitor to issue contracts. The quicker that the above issues are dealt with the quicker the solicitor is in a position to sell your property.

Overview of Steps

Step 1. Sale Agreed. The first step is where you agree to sell the property to the preferred bidder. At this point the buyer will pay your auctioneer a refundable deposit of 5% of the sales price. You have no binding agreement at this point.

Step 2. Issue of contracts. The next step is that your solicitor will collate title and issue contracts. Depending on the degree of preparation done, this can take anywhere between one week to three months from the date of first instruction to your solicitor. Therefore, giving good advance warning to your solicitor is vitally important.

Step 3. Investigation of Title. Once your solicitor issues a contract together with supporting title the solicitor for the buyer will conduct a process known as investigation of title. This is where the purchaser will raise a series of queries about the property. This can take anything between 1 month and 3 months to complete.

Step 4. Contract Exchange. If the purchaser is satisfied that all matters are in order then the purchaser will send you a contract duly signed together with a deposit. Up to this point you are free to put the property back on the market if you have second thoughts or you are free to withdraw from the sale. However, once you or your solicitor sign the contract and returns it to the solicitor for the buyer then you are bound to sell.

Step 5. Completion. The next stage is the completion process which normally takes about 3-4 weeks. You should at this stage make steps to ensure that the property is ready for occupation. For example, it may need to be cleared out, you may have to give notice to tenants and make keys available to your solicitor or to your auctioneer. You should also make available to your auctioneer the MPRN number for electrical readings. This is a unique code for the property and is on your electricity suppliers invoice or your BER certificate. You should take a final meter reading on the day that you leave and provide this to your electrical supplier, notifying them that you are leaving the property.



You will have to make sure that your Local Property Tax is fully paid for the entirety of the year that you are leaving. This will be apportioned and a balance payment will be made to you in addition to your purchase price. You will be required to sign some additional documentation by your solicitor to include the final purchase deed. Once you vacate the property and have signed the purchase deed, you should receive the final sale proceeds from your solicitor less auctioneering and solicitor fees and any monies owed to your lending institutions.

How much does it cost?

The costs of sale generally depend on the work that is needed to rectify any issue prior to sale. However, as a general guide, you will need to budget for any tax costs (see below) and also 2% for auctioneering costs and approximately 1% for solicitor costs. Vat at 23% applies to professional fees. You may also have some additional engineering fees and outlay. However costs for professionals tend to vary depending on the complexity of the matter.

Taxation Matters

It is vitally important that you address the taxation matters with respect to the sale of your property. You may have a liability to Capital Gains Tax. This tax is currently 33% of the difference between the value of your house when you obtained it (to include any enhancements you have made to the property) subtracted from your current sale price. If there is a gain then it is the gain that is taxable at 33%. If you do not live in Ireland you still have to pay the tax.

It is vitally important that if you have enhanced or developed your property over the years that you have a full itemised list of the year of expenditure, the amount of expenditure and the purpose for the laying out of such monies. Supporting documentation by means of receipts and invoices is very beneficial. This task should not be left as an afterthought. It must be addressed at the very start. You have a liability to pay tax by the 15th of December or the 31st of January of each year (depending on your date of sale) and you must file a CG1 Return by the 31st of October in the year following your sale.

Conclusion

A sale of a property is a momentous event in anyone's life. There is enough to manage in your life getting the sale organised and a new premises located without having additional stress of dealing with legal issues. Being well prepared and having in place a great legal, auctioneering and engineering team will be essential to the smooth transition and successful completion of your sale.

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