

Article on Mortgagee's Sales
(Published in Northern Outlook on 15 July 2010)
Mortgagee Sale – What are you buying?

By Justine Grey, Director

Due to the unfortunate story of a North Canterbury family's experience buying at mortgagee sale it seems timely to set out some reminder points when purchasing a property from a mortgagee. With the impact of the recession fallout, mortgagee sales are commonplace and it is crucial the purchaser is conversant with the **terms** of the contract. Mortgagee sales are typically constructed in favour of the Bank and may include any or all of the following:



- Vacant possession is not given – a tenant in the property at possession will be the purchaser's responsibility to remove;
- Pre-settlement inspections are not available – there is no right to view the state of the property before settlement;
- The mortgagee is not obliged to hold insurance – the purchaser should insure the property from the date of the agreement;
- All vendor's warranties are removed – any alterations made to the property may not comply with local authority or building requirements;
- Settlement may be deferred due to other interests affecting the title;
- Most importantly, *the key to remember*, the mortgagee only has the power to sell the land/buildings. Chattels are not the mortgagee's property.

It is this last point which causes the most grief. It seems common in mortgagee sales for dwellings to be stripped of dishwashers, ovens and even light fittings. If an item is a fixture ie: it is fixed to the land/buildings and becomes part of the property then, theoretically it should remain part of the property. Otherwise, if removable, it is a chattel and probably will not be there when the purchaser takes possession. Regardless, it can be common for the mortgagee's terms of sale to state **fixtures and chattels are not included**. When buying at a mortgagee sale – **CHECK THE TERMS OF SALE BEFORE YOU BUY**.



Barristers & Solicitors

7 Ashley Street

PO Box 627

Rangiora 7440

t. 03 3106464

f. 03 3106462

e. Justine@ashleylaw.co.nz

w. www.ashleylaw.co.nz