

WHEN DO I REALLY OWN MY HOME

By Elana H. Billig, Advocate

People who have gone through a real estate transaction are generally overjoyed to finally get their keys and settle into their new home. Freely hanging pictures anywhere and everywhere in one's own home without a landlord's input has been described as blissful. However, simply because you have the keys and are the one living in the house does not mean that all is in good order with the title to your home.

The purpose of this article is to set forth an understanding of the title transfer process in Israel relating to second hand homes which are registered in the Lands Registration Bureau (the "Tabu"). It should be noted that the registration process is different for new construction and for homes registered with the Israel Lands Administration (the Minhal) or other registries.

In most real estate transactions in Israel, several weeks or even months elapse between the time that the purchase agreement is signed and the time that the purchaser receives the keys. Then, generally, many more months pass from this time until the title transfer process can begin. Then, some more months will likely go by before the title registration is complete, and other than occasional reminder notes from your mortgage bank (if you took a mortgage), while the smell of fresh paint begins to wane, there is probably little cause to think of the status of your title transfer.

As an attorney handling real estate transactions, amongst other practice areas, I have encountered a number of situations in which the performance of a title search on a house that someone was seeking to purchase revealed that someone simply had never finished the final and critical step of completing the title transfer in Tabu. Even more horrifying was the situation where new clients had come to me to represent them in the sale of their home which was at an advanced stage of negotiations, only to discover that the title transfer process from when they purchased the home several years before had not even been started. The clients were extremely distressed when they learned that they had been showing a house which was not ripe for sale given the registration status. In the absence of fraud, situations such as the above are generally rectifiable, but they further exasperate the usual high emotions associated with real estate purchases, and will almost undoubtedly complicate and extend the contract signing process.

The title transfer process is lengthy, and while the recording of a cautionary notice of the transaction in the Tabu is a way for the general public to be made aware of your interest in the asset, the title transfer process can only begin once all of the requisite tax clearances and the certificates from the municipality are submitted to Tabu. If there is a mortgage involved, this too creates additional paperwork. To ensure and guarantee receipt of the tax clearance and municipality certificates in a timely fashion, it is critical that sufficient funds from your final payment to the seller

be held in escrow, as without those critical certificates you cannot transfer title. You certainly do not want to end up in litigation to try to recover funds for repayment from the person you bought your house from, particularly if they have debts for items such as appreciation tax (mas shevach), arnona (municipal tax) or for a betterment levy (heitel hashbacha). Once you have all of the requisite paperwork, you need to be prepared for the fact that the Tabu often has a backlog, and there is always the possibility of a strike lingering to further delay your title transfer.

In the Tabu, the contents are reviewed by a series of the Tabu employees of different rankings, and on many occasions, the file is returned for additional documentation or changes, which only adds to the title transfer time. When the Tabu approves the transfer, they simply stamp the deeds and return them to the attorney. The final step is then performed for another small fee, and this is the obtaining of a title abstract where you will see your ownership interests recorded in the Tabu. At this stage it is finally appropriate to congratulate yourself on being the real owner of your home.

It is important to note that this article relates to purchasers who are holders of an Israeli Identity number since foreign purchasers of Israeli real estate, not on private land, are subject to additional requirements.

Additionally, it should be noted that the distinction between ownership and long term lease rights in property is beyond the scope of this article.

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