

Short sale doesn't mean end of story

Written by

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Real estate short sales have benefits for almost everyone involved.

Sellers get out from under mortgages they can't afford. The buyers get a good deal. The banks or mortgage companies agree to get less than is owed - but they at least get something.

The only folks who lose in a short sale are the lawyers handling foreclosures. If a short sale goes through, their work is done.

So maybe that's why I'm hearing from folks about foreclosure actions that refuse to die even after a short sale goes through.

Gary Sawchuk, a Canadian snowbird, was the first to call me about this.

A couple of weeks after closing on a Gateway condo he bought in a short sale, Sawchuk received a civil summons for a foreclosure on the property.

Sawchuk had been represented by a title company who told him not to worry. It was likely a backlog. But that did little to alleviate his anxiety as weeks passed and the case moved through the court system.

"I've never been served a summons before and this is causing stress and grief," Sawchuk told me. "It's a cloud hanging over me. "I'd hate for the clerk's office to auction the property when we paid and had clear title."

The same thing is happening to sellers who thought a short sale would stop the court proceedings.

Betty Wells, who owned a house in Cape Coral, sold the house in a short sale April 13. A week after the satisfaction of mortgage was filed, Wells was notified of a June 1 trial.

Wells, a former News-Press editor, now lives in Juno Beach. She doesn't want to drive to Fort Myers for a court hearing for a house she no longer owns.

Wells is concerned about what will happen if she doesn't go to court to show the house was sold.

"Will it cause problems for the new owner?" Wells asked.

According to real estate attorney Kevin Jursinski, distressed sellers and the buyers of their properties are being jerked around by an out-of-control foreclosure system.

"It's so sloppy of a procedure, it's just unbelievable," Jursinski said. "Too many lawsuits are handled by too few attorneys."

The volume allows law firms to handle the cases at a discount, but it means they cut corners, he said. And individual cases get no individual attention.

"Unfortunately, the law firm continues to file as if they're robots and no one tells them, "You're litigating a case that has been settled'," Jursinski said. "The bank doesn't communicate with them."

Eventually, Jursinski said, it straightens out and the court case is dismissed. But it could take a while, he said.

And he was right. A couple of weeks ago Sawchuk's case was dismissed - 31½ months after he bought and paid for the property.