

# Week 6 bus

Science, Social Science



WEEK 6 BUS Distinctions among the real estate contract, a deed, and a mortgage, and how these legal concepts played a leading role in the real estate crisis in the United States

A real estate contract is a contractual agreement between two parties in the sale and purchase of a real estate. This contractual agreement involves a leasehold estate. Leasehold is a rental portion of a real estate. Apartments are categorized under leasehold estate because they do not result in recordable deeds. On the other hand, freehold category for real estate involves fees and life estates. Additionally, this type of real estate includes freehold easements. Real estate contracts involve the consent of two people. Frank and Bahaudin assert that real estate agreements must be in writing in order for them to form a binding contract (32). This condition is fundamental in case of any litigation.

A mortgage refers to a document given by a lender of property, especially land, in order to create a lien on the particular piece of land. A mortgage involves two parties to the mortgage contract. These are the mortgagee and the mortgagor. The mortgagor is the borrower while the mortgagee is the lender of the property in quest. A mortgage contract also involves mortgage transfers, which are contacts involving banks. There are conditions, which must be fulfilled before a mortgage contract is enforceable in law are that the contract must be in writing. The particular document, which is used in the transfer of a mortgage, is called an assignment of a mortgage. According to Frank and Bahaudin, the mortgage contract gives the mortgagee the right to dispose the property in the event the mortgagor fails to cover the property debt (47). In a mortgage contract, either the mortgagee or the

mortgagor with regard to the theory applied can hold the title of the property. In the case of a title theory state, a borrower transfers the title to the lender over the period of the loan. Conversely, a lien theory state is a scenario in which the buyer of the mortgage holds the title of the property in quest. A mortgage is different from a deed on the issue of foreclosure. The document relating to the closure of escrow differentiates a mortgage from a deed.

What makes a covenant not to compete legally valid and enforceable in a contract for the sale of a business?

A covenant entails a pledge of property with an aim of securing a loan. In this regard, it is almost similar to a mortgage. A covenant involves a trust or and a beneficiary. In this case, the tutor is the borrower while the beneficiary is the lender of the property. The beneficiary is also known as a trustee, who holds legal title to the contractual property. The beneficiary helps in the selling of property, especially at auctions. The trustee can resort to the move when the borrower fails in his obligation to pay due payments. A covenant ought to be honored upon transfer in order to form an enforceable deed contract. The document in which the deed contract is recorded is called an assignment of deed of trust. A covenant also involves both non-judicial and judicial foreclosures (Frank and Bahaudin 68). In the former case, the lender can indulge in foreclosure without the involvement of the court in case the contract contains a clause of power of sale. However, non-judicial foreclosures are quick when they are compared to the judicial foreclosures. How has the law in the United States caught up with technology when it comes to the making of contracts?

The United States contractual law has been developed in tandem with technological advancements. Technology has made the preservation of evidence better than before. For instance, a mortgage comprises of two parties to the contract while the deed involves three parties to the deed contract. The deed contractual parties include the borrower, the lender and the trustee. In this case, the trustee is a neutral party who is responsible for the holding of the title until the full debt is fully paid.

#### Work Cited

Frank, Cavico and Bahaudin, Mujtaba. Business Ethics: The Moral Foundation for Effective Leadership, Management, and Entrepreneurship. New York, Universe, Inc.