# Real estates

Business

The concept of ownership of property has been in existence for many years, varying from one culture to another.

Any state has unique and specific approaches to rights and the control of property. As a matter of fact, a person can have exclusive rights to an intellectual property or real estate by acquiring a title. The cultural perception of ownership of property and eligibility to property is a complex phenomenon and people can acquire, transfer or lose ownership in a number of ways. Methods of property acquisition include purchasing, bartering with another property, as a gift, stealing or homesteading it (Baum and Mackmin, 1995). Contrary to acquisition, one can transfer or lose ownership by selling the property for money, exchanging for another property, through eviction, foreclosure or seize. Real estates are an expensive venture and people have sought various ways of financing the purchase and improvement of realty property.

These include the use of mortgage loan which is normally collaterized by the property itself. In this method, the investor must calculate the ratio of leverage- the amount of the price of purchase financed by the debt to total appraised value (LTV) when using this method to finance the purchase of a property (Baum and Mackmin, 1995). The other method is through government-insured methods like FHA and VA loans. FHA (Federal Housing Administration mortgage is provided by FHA-approved lenders to low income Americans in order to purchase houses that they would otherwise not afford (Sirota and Barrell, 2003). To get this loan, a mortgage insurance premium (MIP) of an equal amount at its closing is mandatory. Secondly; the potential lender must asses the prospective buyer in order to ascertain the risk through an evaluation of payment history on other debts to arrive at the eligibility and terms of the loan.

VA loan on the other hand are available only to qualify consumers who have honorable and ample time in the US military (Sirota and Barrell, 2003). It guarantees 25 percent of the military mortgage made by lenders which have VA's approval. For one to qualify for this loan he or she must obtain a certificate of illegibility or COE from the lender through a quick online system called ACE. The borrower may be required to give out of pocket cash and the lender should collect a VA funding fee from the borrower. Here, no private mortgage insurance (PMI) is not required which saves borrowers substantial amount of money monthly. Furthermore, these veterans do not necessarily have to be first-time buyers and hence they can reuse their benefits more than once (Sirota and Barrell, 2003).

The buyers often need to ascertain if he or she is buying property from title theory state or lien theory state. Each theory has considerations on who holds the title and how foreclosure proceedings would take place when necessary. A title-state theory is defined as a state in which the law splits the title to mortgaged property into legal title, held by the lender, and equitable title, held by the borrower (Sirota and Barrell, 2003) The proponents of title theory asserts that the mortgage transfers the title of a property to a mortgagee who holds it until such a time when the mortgage has been paid off, At this point, the title is passed to the mortgagor. Lien- state theory on the other hand is defined as a state whose laws give a lien on property to secure debt. It implies that a person or an institution that holds a mortgage has the legal right or claim on the property of another person by making that property a security for payment of a debt.

In title-theory states, the borrower does not hold the title to the property during the time of the loan. In this case, the seller gives the borrower a deed to the property but when the borrower signs the mortgage for the loan, he or she gives the title back to the mortgagor. The mortgagor then holds the property in question as security until all loan payments have been made. During this time, the borrower has the right to possession of the property, and the lender delivers the deed back to the borrower only after obligations have been satisfied (Sirota and Barrell, 2003). In lien-theory states, the buyer holds the deed to the property during the loan period and upon making all payments, the lien is removed.

This borrower/buyer makes a commitment to pay the whole amount to the lender and the mortgage becomes a lien on the property. This however, means that it remains with the buyer. The Foreclosure proceeding in lien theory is more complicated for the lender than in title theory state owing the fact that the buyer is in possession of the title to the land and not the lender (Kane, et al. 2004)The advantage for a title theory would be that the lender is the owner of mortgaged land. However the disadvantage to this theory is that the borrower becomes the landowner only after the full payment of the mortgage debt has been cleared. Advantages for a lien theory would be that a homeowner receives the title documents to his house immediately, even though he may have a mortgage on the property.

A disadvantage for a lien theory would be the mortgagee only receives a lien on the property and has no right of possession but must foreclose the lien and sell the property if the mortgagor defaults. The State of Florida is a lien-theory state. In Florida, all mortgages are foreclosed in equity. In a mortgage foreclosure action, the court severs all counterclaims against the foreclosing lender. The foreclosure claim is tried to the court without a jury.

The court gives an order to specify how the foreclosure should be carried out, and the foreclosure must take place in the way directed by the court order (Kane, et al. 2004). In the event of a legal advertisement, publication, or notice relating to a foreclosure proceeding is required to be placed in a newspaper, it is the responsibility of the lender or their representative to place such advertisement, publication, or notice (Isaac, 2002). The Equitable Right of Redemption often results in the termination of the foreclosure sale. There maybe, depending on the state, a period of time after the sale that “ the court reviews the sale to ensure a fair price has been paid.

” Normally, this time spell allows parties to object or disagree to the sale. This may be on the basis that proper disposal procedures were not followed or the bidders colluded. This time span lasts for 10 days. The Certificate of Sale is then filed and title to the property is passed if the sale is confirmed. In the event that the sale is not confirmed, another sale is ordered and bidders invited (Brown and Matysiak, 1999)The types of conventional mortgages (not insured or guaranteed by the government) available for borrowers include Wraparound Blanket Balloon Junior Term Growing Equity (GEM). It is also called all-inclusive or overriding implying that it wraps around an existing senior loan.

This is often used by builders or developers and covers more tracts of land. It has fixed interest rate and growing payments. It also contains partial release clause hence allowing the borrower to obtain one or more parcels of land making him or her have a marketable title. Adjustable Rate mortgage (ARM) is that whose rate of interest is adjusted periodically depending on market indices. For instance, 3-6 implies that this mortgage has an initial period of 3 years and an adjustment value once after every 6 months.

Variable Rate Shared Appreciation (SAM) is particularly designed for people who are first time buyers and have not saved enough to buy a house. Borrowers who have less than perfect credit score can take advantage of this mortgage (Baum and Mackmin, 1995).