

## Agreements “of” or “for” Sale



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There are actually two separate and distinct documents used to evidence an agreement to convey land:

- 1) agreements of purchase and sale, and
- 2) agreements for sale.

The first category is relatively straightforward and is the common document in use. The agreement results from the acceptance of an offer and specifies the terms upon which the vendor will convey title. The closing date is typically, three or four months in the future and the funds are exchanged in return for the title to the property. Well in excess of 99% of real estate transactions are undertaken using this form of agreement.

The second category is a little different. It also involves financing. This form of agreement is used in specific commercial transactions. Oftentimes, it is used by developers in their sales to builders. The plan of subdivision has not been approved, the property cannot be properly conveyed and the result is that it cannot be properly financed.

A developer will still nevertheless wish to enter into an agreement. They will want to give their own financial institution some evidence that they have sold various parcels of property. The essential issue is that the property is probably not registered as a specific parcel. Or, there could be many matters that are too onerous to solve for an independent third party mortgagee. One way to resolve this problem is to use the “agreement for sale”. This agreement is much like a conditional sales contract. The title will be conveyed only when the entire purchase price has been paid. The purchaser will start making payments in much the same way as he would if the property were financed by way of a mortgage.

What is the purpose of the agreement of sale? Basically, it saves time and money. The builder will acquire the property and start building. There will be no delay awaiting financing since the developer will be self-financing the property.

This is beneficial to both parties, and ultimately to the eventual purchaser of the new house. By that time, arrangements will have been made with a lender who will be in a position to register proper mortgages on title. The next agreement will be in regular form, using the agreement of purchase and sale.

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