

TALES FROM THE TRENCHES™

BY BARRY C. MCGUIRE

SO, YOU WANT TO BE A ‘FLIPPER’

There is a whole section of the real estate investment world known as ‘flipping.’ Basically, flipping is when an investor gets control of a property by signing a purchase contract, but rapidly sells it to someone else for a profit. You see, before the investor has to close on the deal, s/he sells her/his interest in the property (the purchase contract) to another party. The ultimate buyer completes the purchase contract and takes title to the property. The flipper’s profit is the difference between the sale price to the ultimate buyer and the purchase price from the seller/developer. [Don R. Campbell](#) of [Real Estate Investment Network \(REIN\)](#) fame has long cautioned against the most common form of flipping, which is to invest in condominium presales.

Here’s what happened to an inexperienced client of mine at [RMLO Law LLP in Edmonton](#). With only one purchase of a house under his belt, my client made offers and had 10 purchase contracts accepted for condominium units in a brand-new building. The seller/developer’s contract was typical, a 50-page contract drafted by a big downtown law firm. It said the contract was ‘un-assignable’ without the permission of the developer, which the developer might provide if he was paid a percentage of the purchase price in order to consent.

Now, these were relatively inexpensive condominiums, so if my client-buyer was going to occupy a unit as his personal residence, there would be GST rebate to factor into the purchase price. What my client didn’t understand was that if he wasn’t going to be an owner-occupier, he wasn’t entitled to that price-reducing GST rebate until much later. It could not be factored into the purchase price now.

When the completion date arrived for my client’s deal with the seller/developer, uh oh, my client had only sold/flipped two of the units. He had no buyers for the other eight units. And, being inexperienced, he used the standard Multiple Listing Service (MLS) contract for his ultimate buyer. That contract says that GST is included in the purchase price. So, here’s the scenario. The seller/developer essentially said to my client, “if you are buying 10 units, I know you’re not an owner occupier therefore no GST credit. You pay full price.” On behalf of my client, I suggested to the ultimate buyer’s lawyers that I wanted the purchase price to be, ‘plus GST.’ They laughed and point to the clause that says GST is included in the purchase price.

Did I mention my client was only able to sell 2 of the 10 units he had contracted for? I was instructed to call the lawyers for the seller/developer and request a refund of the 8 deposits of \$7,125 because my client couldn’t close. That was a wasted call and for the second time in this deal, lawyers for the other side were laughing at me. They said, “Why would we refund deposits? That’s what deposits are for, good faith money.” Furthermore, the lawyers for the seller/developer mentioned that if they couldn’t sell the units to someone else for the same or a better price, they would consider suing my client for the difference.

Lessons Learned:

1. **‘Flipping’ is a Senior Strategy**

Do not attempt this without substantial real estate experience. At the very least, make any deal ‘subject to buyer’s lawyer’s approval.’

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2. **GST is Complicated**

In Canada, the Goods and Services Tax (GST) is treated differently in different situations and contracts. Again, you need experience and expert advice to make sure the GST component doesn't bite you.

3. **Have Exit Strategies**

And, as we've said so many times before, before committing to a deal or deals that expose you to risk, you need to cover your exit with at least Plan B and, better yet, a Plan C.

**FOR ALL YOUR ALBERTA REAL ESTATE LEGAL NEEDS,
CONTACT BARRY MCGUIRE TODAY!**

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