

Buying property at auction

Legal and practical advice

By Alan Zeffertt

Buying property at auction has many advantages over the traditional way of buying through estate agents. There is no gazumping or gazundering. The deal is done at the fall of the hammer when the successful bidder must pay a 10% deposit. Completion will usually take place 28 days later.

Property auctions have become an increasingly popular in recent times and they continue to grow in popularity as property prices drop in the recession. There are bargains to be had from the increasing number of repossessed properties and properties owned by Sellers who are desperate to sell quickly.

This fact sheet examines the legal and practical aspects of buying property in the auction and tells you what to check before you bid.

Inspecting the Auction Property

Arrangements should be made with the Auctioneers to view the property. A survey or inspection by a surveyor and a valuation should be arranged so you can assess the likely costs of essential repairs and the value of the property. The legal principle of 'Let the buyer beware' applies and neither the Seller or the Auctioneers have a duty to disclose any defects in the structure or fabric of the property. Do not be tempted to bid without having inspected and done your homework on the particular property and similar properties and their values.

Dealing with the auctioneers

The first step is to get a copy of the auction catalogue from the auctioneers. This contains details of the 'lots' (properties) to be auctioned. You should be able to view these online, but make sure that you are looking at the auctioneer's official website.

Check all information including:

- The General and Special Conditions of Sale
- The Important Notice to Bidders
- The Memorandum of Sale
- The legal pack which contains documents including the Home Improvement Pack (HIP), title information, searches and leasehold documents
- The guide price, which can change at any time prior to the auction
- Any addendum which you can get before or at the auction – this tells you about any additions or amendments to the catalogue that affect the sale of the property.

Shortly before the auction, it is a good idea to call the auctioneers to check that the property you wish to bid for has not been withdrawn or sold prior to the auction. This will save you making an unnecessary journey..

Check also the auctioneers' procedures for:

- Proxy, internet or telephone bidding if you or your solicitor can't attend the auction
- Paying the deposit
- VAT – You need to know whether or not the sale is subject to VAT. If so, you need to know if VAT must be paid in addition to the price
- Checking your ID
- Pre registering your details.

Getting a mortgage

Once you have found a property you want to bid for, you will have to move fast. It is advisable to first get a mortgage in principle before you bid for the property. A mortgage in principle is a conditional offer made by a mortgage lender that they will 'in principle' give you the loan you have discussed with them. The grant of a mortgage will be 'subject to satisfactory survey' so it is advisable to have a survey of the property before bidding at auction. Remember that if your bid is successful, you will have to pay a 10% deposit which is non refundable if you fail to complete. You will usually have only 28 days in which to complete when the remaining 90% of the purchase price plus the expenses of the transaction must be paid.

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Checking the legal documents

As soon as possible, obtain from the Auctioneers the legal papers and send these to your solicitor to be checked. The legal pack should include a Home Information Pack (HIP) with the land registry title entries, up to date local authority search, and the lease (if leasehold). Your solicitor should check for replies to enquiries before contract, service charge and buildings insurance information if the property is leasehold, and other relevant information.

Care should be taken to check the special conditions of sale and other legal documents to ensure that there are no unusual or onerous clauses. This is especially important since some Sellers try to sell properties with defective titles in the auction in the hope that someone will bid without properly checking the title.

How to buy at the auction

If you're nervous about the auction process you could get your solicitor or other appointed agent to do the bidding for you. If you prefer, you could, by prior arrangement with the auctioneers, bid by telephone.

You should set a price limit on the property. If you're doing the bidding yourself don't get carried away and exceed it. If your bid is successful you are legally bound to buy the property and will need to pay there and then a 10% deposit. You will be asked to sign the auction contract or memorandum in the sale room. Both the Seller and the Buyer become legally bound to complete on the completion date set in the contract.

It is a good idea to attend an auction as an observer and get a feel for how auctions work.

If a lot doesn't reach its reserve price, it will be withdrawn from the sale.

If this happens with a lot you are interested in, do leave your contact details with the auctioneers who should contact you later about any sale of the property after the auction.

Our auction legal service

We will check the legal documents and advise you prior to the auction. Simply contact us and send us the legal papers. We will check these for a fixed fee which is deductible from our conveyancing fee payable on completion should you be successful in bidding at the auction.

We are very experienced in dealing with auction properties for both buyers and sellers, having given legal advice at a major property auction for several years.

For further details of our auction legal service please visit:

www.lzwlaw.co.uk/auction.html

or

Contact us by telephone on 020 7357 9494 or email:

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