



Though it remains one of the poorest countries in the world, with many of its people living below the World Bank poverty line, it has had some success in wooing donors and investors. Tanzania is a peaceful and lovely country. This and many more factors have contributed to Tanzania being attractive to real estate investors.

The exchange or transfer of real estate is known as conveyance. That is, to transfer or deliver land or property to another or to perform an act that is intended to create one or more property interests regardless of whether the act is actually effective. The usual means of transfer is by way of a deed.

In brief, there are five stages of the conveyance process:

1. Pre-contract negotiations
2. Exchange of Contracts
3. Pre-Completion Procedures
4. Completion
5. Post-Completion

#### Pre-Contract Negotiations- Stage 1

The buyer and the seller must work out their respective positions. It is not the duty or role of the lawyer to undertake negotiations although lawyers mostly do so as to ease the process and guide both parties. The objective is to arrive at all the terms especially the price and the extent of the property that is being sold and conversely bought. The parties must discuss and agree to any and all conditions such as key dates when contracts are to be exchanged and the completion date.

#### Exchange of Contracts-Stage 2

After the parties agree upon the terms, then the services of an attorney/an advocate should be utilized to draw or write the sale-purchase agreement or other modes of transfer including the Land transfer forms. The identities of the parties must be mutually verified.

Buyers would be prudent to perform the following steps at this stage:

- i) Make searches of title records
- ii) Visit the neighbours and make inquiries Pre-purchase inspection- engineer's report by buyer
- iii) do an evaluation of the property as to determine its true values



After these preliminaries are done, a draft contract is prepared by the seller or her attorney that is sent to the buyer or his attorney for signing. It is customary for the buyer to make revisions and upon the resolution of all terms, the stage is set for the signing of the contracts and payment of the purchase price.

### Pre-Completion Procedures-Stage 3

This stage is marked by the following formalities being completed:

- i. Land transfer Documents are submitted to the Municipal Council and later assessments for and payments of the Stamp Duty and Capital gains Tax
  1. Payment of Stamp Duty as a percentage of the price is supposed to be split or shared by the parties;
  - iii. Seller alone pays the Capital Gains Tax;
  - iv. The executed instrument of transfer is accompanied by the original duplicate title for submission to Office of Registrar of Titles to record the new owner and mortgage(s), if any. Additional Steps to be taken if Purchase is being Financed or Mortgaged:
2. (a) If part of the purchase price is funded by a third party, that is, the grant of a mortgage, then the buyer or purchaser would immediately take steps to finalize his mortgage arrangements and get a letter of commitment that is presented to the seller's attorney within the time stipulated in the contract. The buyer pays all fees and duties associated with the mortgage and in due course executes a note followed by a mortgage deed/Instrument of Mortgage. These documents are prepared and presented for execution by the lending institution or mortgagee or its attorney. (b) If the transaction is an all cash deal, then the buyer pays the balance of the purchase price and both parties execute the Instrument of Transfer for presentation to the Office of Registrar of Titles.

### Completion-Stage 4

This is the stage where all the paperwork is signed and the relevant documents submitted to the Office of the Registrar of Titles. After the transfer is registered, you may now be said to be the owner of the property with or without a mortgage. At this point in the sale process, the buyer's lawyers for example ABC Attorneys will have prepared letters addressed to the various utilities regarding the transfer and for the various utilities to register or commence



service in the name of the buyer, now owner.

#### Post-Completion or Closing-Stage 5

The buyer's attorney ensures that the transfer is completed and the duplicate certificate of title is accurate. Further, the title reflects the discharge of any prior mortgage(s) and the accuracy of any new indebtedness or mortgage. After inspection, the owner is given his certificate of title or a certified copy of the title if the lending institution kept the original certificate of title. The post-completion process should take less than 3 months.

#### Conclusion:

Conveyancing in Tanzania is mostly done by lawyers for they know the law and the whole transfer process among many other reasons. Although the process appears to be simple it can be quite intimidating because of the large amount of paperwork involved and bureaucracy. The time for completion is usually set at 90 days if a mortgage is involved and 60 days if the transfer is a by way of cash.