12 May 2023

HALF-SHARE TRANSFERS: PART 2 - BONDS

There are often existing bonds over properties in which half-shares are to be transferred. However, replacing a debtor in an existing bond is not as simple as it may appear. It must be noted that the option of substitution of a debtor to a bond must first be approved by the bank's home loan department through an application made by the new debtor.

Different banks will deal with this application in different ways. While some merely update their system, others will allocate a new home loan account number and require formal bond documents to be signed. However, all banks will do a full credit assessment to ensure that the new debtor qualifies for the bond.

Not all banks will allow for a substitution of a debtor. Depending on the bank's own internal rules, they may not allow a new debtor to substitute a debtor and in such cases the existing bond will have to be cancelled and depending on the type of transfer scenario, the new debtor will have to register a new bond in his own name. Bond cancellation costs will also find application- i.e., the bond cancellation attorney costs and the amount calculated by the bank in order to settle the existing bond.

The bond attorney costs for a substitution are calculated at 75% of the recommended fees specified in the Conveyancing Guideline of Fees. Always consult with a conveyancing attorney to determine if a substitution will be applicable in a specific situation.