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## LEASE AGREEMENTS AND THE SALE OF A PROPERTY

What happens if you are selling or buying a property and the property is let to a third party? There are 3 possible options:

The first option is: The purchaser takes over the lease agreement on registration. This is the default legal position of "huur gaat voor koop". The purchaser becomes the lessor and is bound by the terms and conditions of the lease agreement. The tenant will therefore continue to occupy the property on registration and thereafter until the lawful termination of the lease agreement. The purchaser is entitled to the rental income from date of registration of the property.

The second option is: The seller and purchaser agree that the transfer will only be effected after termination of the lease agreement to ensure that vacant occupation is given to the purchaser on date of registration. This is usually when the lease agreement is close to its expiry date.

The third option is: The lease agreement is amended by an early termination agreement between the seller and the tenant, and the purchaser will be given vacant occupation on date of registration. This means that it is agreed by the seller and the tenant that the tenant vacates the property on an agreed upon date.

It is important to note that with options 2 and 3, if the tenants do not vacate the property on or before the expected date, the seller must, at his/her expense, take the necessary legal steps to ensure that the tenants are evicted from the property. The transferring attorney will not proceed with registration until he/she receives confirmation that vacant occupation can be guaranteed, unless the purchaser agrees.

Therefore, it is very important for sellers and purchasers to clearly stipulate whether the property is being let to a third party, whether the third party will vacate the property on registration or whether the purchaser will be taking over the lease agreement.