

Why Did the Sale Fail? Interruptions in the Bundle of Rights

When someone owns real property he or she is afforded basic property rights, known as the "Bundle of Rights." The bundle of rights includes the right of possession, the right of enjoyment, the right of disposition, the right of control over the real property, and the right to exclude others from the real property. The bundle of rights is incredibly powerful, bringing true meaning to "a man's home is his castle."

Even though a property owner's bundle of rights is an immensely protected legal set of rights, interruptions in those rights occur regularly. Interruptions often serve to restrict the owner's ability to utilize all or a portion of his bundle of rights. While an interruption is in place, the property owner may find himself unable to enjoy his property as he had expected.

One very powerful interruption is the tax lien, which restricts the owner's right to sell or encumber the property. If the owner acquired the purchase money for the real property from a lender, then his bundle of rights are restricted because he may not sell or encumber the real property without first satisfying the lien held by the lender. Tax liens become public record making it easier for potential buyers to discover their existence, keeping them from purchasing property that the government may have acquired a legal interest.

Marriage also has a restricting effect upon the bundle of rights because spouses are not free to alienate (sell, gift or transfer) their interest in the property without the other spouse's consent if the property is their homestead. That interruption is designed to keep property owners from selling the home out from under an unsuspecting spouse. The dissolution of marriage may force one spouse to give up the bundle of rights altogether if the other spouse is awarded the real property in divorce proceedings. Even when the right of ownership is taken away, sometimes the obligation for repayment on the loan for the property remains.

A fairly common interruption to the bundle of rights is the mechanic's lien. If a contractor attaches a mechanic's lien to the property, the owner no longer has the right to sell, transfer or otherwise encumber the property without acquiring a release of the mechanic's lien. During the period of time that the mechanic's lien is in force, the owner's bundle of rights is restricted.

As a real estate agent or broker, you often find that sales fail because a property owner's bundle of rights has been restricted, with or without his knowledge. A thorough interview of the client and proper research on the property may help you to keep your time from becoming a waste.