Carlisle TITLE



CONSIDERATIONS FOR PURCHASING A HOME BEFORE DIVORCE IS FINAL

Real Property Purchased Prior to or During a Divorce is Considered Community Property

Texas considers all property purchased during a marriage (even during the pendency of the divorce) to be community property regardless of whose name is on the title or account. Each spouse has a 50% interest in the home, even though the title may be acquired in the name of the other spouse. It is likely the funds used to purchase the house belong, in part, to your soon-to-be-ex-spouse so any house purchased with those funds would be 50% his too. A title company will require the other spouse to attend the closing and give permission for the new home to be purchased.

Financial Limitations

During a divorce, the Court will generally issue "temporary orders" that prevent either spouse from depleting assets or incurring new debts. Typically, major purchases are specifically prohibited (without the involvement of attorneys and your spouse). Both spouses are limited to spending only what is absolutely necessary to maintain their households. Often, a limit of $500 to $1,000 is placed on discretionary spending. Expenses above that amount would require the approval of the other spouse.

Many attorneys require the non-purchasing spouse to sign a special agreement to permit the purchase of a home during divorce proceedings. However, this agreement still doesn't clear the title. Nor does thisagreement address the non-purchasing spouse's ability to make the mortgage payments once the divorce is finalized and support obligations are known.

Conclusion

Although not advised, purchasing a home during a divorce can be done but you need guidance from professionals who know how to handle these matters correctly. While a temporary living arrangement is not ideal, it could provide comfortable accommodations without the complications involved in purchasing a home before the divorce is final. Once the divorce is final, buying a home becomes less of a hassle, a lot more fun, and allows you to start the next chapter of your life with no strings attached.