

Real Estate Case Study

Property owner misled by vendor



Case Details:

The Claimant (owner of property) had alleged the insured (vendor) provided misleading and deceptive information regarding a property that was being sold during an auction.

It is alleged that our insured had informed the claimant that a duplex could be built on the property, however upon further querying to the council it was found that this was incorrect information and our insured had withheld this from the claimant. The 10% deposit had been cancelled as the purchaser rescinded on the contract, this resulted in the owner of the property taking action against the insured for failure to sell the property which in turn caused a financial loss to the owner.

The matter went to court as it was unable to be resolved at mediation. The court found that the insured ought to have known about the rejected application for construction of the duplex as this should have been disclosed upon discussions with the vendor.

Whilst the vendor may or may not have deliberately withheld this information from the insured, the query was presented to the insured pre-auction. The insured should have completed their due diligence to verify if this was correct prior to disclosing to any potential buyers.



Case Outcome:

Policy Response

As a claim has been made against our insured, the policy responded and insured indemnified, under the negligence trigger for breach of their professional duty. The insured had acted negligently by allowing a property to sell, given prior known circumstances regarding restrictions which were not passed onto the buyer.



Reduce Your Risk:

- Create a checklist of due diligence to be completed before realising information to potential buyers;
- Make sure all contracts with vendors have a clause that holds the vendor liable for any withheld information that may affect the sale;
- Compile all information and cross check to verify in order to minimise exposure;
- Ensure you are aware of any inherent risks at a property when you agree to sell.