

When will I get my keys on settlement day?

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The reality is you won’t get those precious keys until settlement has taken place (when the purchase price is paid and the title to a property is transferred). And it can be quite hard to pinpoint exactly when that will happen on settlement day.

It all comes down to the age-old problem of who gives what, first. The Vendor

doesn’t want to hand over the property until they receive payment of the purchase price, and the Purchaser doesn’t want to hand over their (and their bank’s) hard-earned cash without a guarantee they will get the property in return.

To get around these issues, the lawyers involved in a property settlement give each other ‘undertakings’ (which essentially means we promise to do certain things). Those undertakings can be enforced against a lawyer in court, so everyone involved has the confidence to move forward and do their bit.

So, in a property settlement context:

- The Vendor’s lawyer gives an undertaking that as soon as they receive payment of the purchase price from the Purchaser’s lawyer, they will transfer the title to the property to the Purchaser; and then
- The Purchaser’s lawyer pays the purchase price, and gives an undertaking to the Vendor’s lawyer that the payment will not be altered, withdrawn or reversed.

So how does this affect what time I’ll get my house keys, you ask? Well, things have to happen in a particular order before the necessary undertakings can be given and settlement can occur:

If the Vendor has a mortgage against the property, the Vendor’s bank had to confirm how much money needs to be paid for the mortgage over the property to be discharged before an undertaking can be given by the Vendor’s lawyer. This amount cannot usually be confirmed until the morning of settlement because interest is payable up to the settlement date.

- The Purchaser’s lawyer can’t pay the purchase price until:
- The Vendor’s lawyer has given their undertakings; and
- If the Purchaser is using bank finance, the bank has advanced loan funds; and
- The Purchaser’s cash contribution is put into the lawyer’s trust account.

So as you can see, there are a number of ducks that have to line up before settlement can occur and you can be handed the keys. You’ll probably feel like a kid on Christmas morning, waiting to open your presents. A bit of patience is required

but rest assured your lawyer is working hard behind the scenes so you can unlock that front door without a hitch.