



Tips for buying and selling

GAZUNDERING gazumping, auctions, private treaties, public tenders and best bids are just some of the issues facing buyers and sellers of property. It was public concern, particularly about guide prices, that led to the Property Services Regulation Act of 2011. That act has regularised matters but there are still pitfalls in buying and selling and it is foolish not to employ an expert to guide you through the process.

Due to competitive bidding many commercial investments and Dublin houses are now going to a "best bids" process. The selling agent invites the parties to submit their best offer by a named date. Whilst bidders don't like it this is a fair process and brings matters to a head.

However, problems can start when the losing bidder then makes another, higher offer. The selling agent has a duty to pass on all offers to his client and some vendors will be tempted to re-open the bidding process.

This is morally wrong and legally dangerous as a contract may have been created with the other bidder. Vendors must respect the "best bids" process or it will lose credibility.

Buyers often prefer bidding at a public auction as they can see what they are up against. There can definitely be an "auction fever" and I've seen experienced purchasers get carried away and bid over their limit.

Many buyers sit towards the back of the room where they can see other bidders and usually make




the smallest possible bids at the last possible moment, dragging the price up in slow increments.

I always had more success by sitting up the front and bidding quickly and confidently, which can see other bidders drop out thinking you are going to buy this property no matter what.

Another tip is to make sure that all your bids count. If you are prepared to buy at €500,000 and if the bids are going up in €20,000 increments, say €450k/€470k/€490k, make sure the pattern doesn't see your last bid being €490,000.

You should reduce the bids by €10,000 so that your last bid is €500,000 — it just might be where the other bidder gives up. The auctioneer won't like you breaking his rhythm but he's obliged to take all offers and I've never seen an auctioneer refuse a bid as he nears his reserve.

Surprisingly it had been permissible for an auctioneer to use what was known as an "owner's bid",


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below the reserve, to keep the bidding going. I was never aware of this happening and it is banned by the 2011 Act.

A vendor is now prohibited from bidding on their own property or getting someone else to. In keeping with the times an exception is made where a couple separate and a court orders a property to be sold. In that situation either party may bid at the auction.

Those attending auctions also have responsibilities.

Over the years it became quite common for neighbours of properties being sold to stand up and announce that they would be contesting any planning application by a buyer.

I've also seen people who were interested in buying a property stand up and announce that there was some title or structural problem, in an attempt to put off other bidders. These are dangerous tactics as in the event of an auction collapsing, the vendor might be able to sue for losses.

I've seen drunk bidders and in a sad case I clerked an auction of a shop which was bought by a woman in bare feet, who hadn't viewed the property. Hours later her parents arrived to say that she was mentally unwell and begged for the contracts to be rescinded. The vendor agreed and the underbidder bought at their last bid.

Contrary to myth a "Dutch auction" is not the creation of a fictitious "other party" to force a private treaty client to make another bid. It is in fact a method used on the continent where the auctioneer starts at a high price and reduces it until someone buys. Agents are also now required to keep written proof of all bids.

Buying by public tender is simpler but the vendor is not bound to accept the highest tender. In some cases a vendor would be well advised to accept a tender from a reliable party at a lower price than that tendered by a known chancer.

Finally, never handle anything yourself where you are emotionally involved — especially a house. Give the job to a calm expert.