



LAND CONTRACTS

Joe Maskovyak, Esq.
Ohio State Legal Services Assn.
555 Buttles Avenue
Columbus, OH 43215





Generally

- Creatures of Statute
- Chapter 5313 of O.R.C. governs
- Section 5313.01 -- Contains definitions of important terms

Definitions (cont.)

- Agreement not required by its terms to be completed within one (1) year of signing
- Vendor agrees to convey title
- Vendee agrees to make installment payments
- Vendor retains title (as security)

Definitions (cont.)

- Property = real property with a dwelling
- Vendor = seller
- Vendee = buyer
- Option Contract to purchase \neq Land Contract
 - ❖ Says so right in the statute

Definitions (cont.)

- Land contract is **not**:
 - ❖ Lease with option to purchase
 - ❖ Lease = landlord-tenant relationship
 - ❖ Landlord-tenant law applies
 - ❖ Chapter 5321 applies, **not** 5313



Definitions (cont.)

- ❖ No purchase yet
- ❖ Tenant \neq owner
- ❖ Tenant has no obligation to assume landlord duties, i.e., make repairs



Definitions (cont.)

- Also known as:
 - ❖ Lease/option
 - ❖ Rent to own



Definitions (cont.)

- Must land contracts have all requirements in order to be so labeled?

Definitions (cont.)

- No.
 - ❖ Have to be able to determine the most important terms:
 - ❖ Purchase price
 - ❖ Monthly payment
 - ❖ Balance due
 - ❖ Intent to convey title

Definitions (cont.)

- ❖ Courts look at intent of parties
 - ❖ Did parties intend to convey ownership interest in the property?
 - ❖ And are the terms able to be determined sufficiently by evidence before the court?



Minimum Contents

1. Full names and mailing addresses of all parties to the contract
2. Date signed by each party
3. Legal description of property, i.e., lot number in a plat
 - Includes easements



Minimum Contents (cont.)

4. Contract price
5. Charges for fees and/or services separate from purchase price
6. Amount of downpayment
7. Balance owed
 - equals $[(4) + (5)] - (6)$



Minimum Contents (cont.)

8. Amount of each installment payment &
Due date of each installment payment
9. Interest rate on unpaid balance & method of
computation



Minimum Contents (cont.)

10. List of encumbrances

- Encumbrances = mortgage, lien

11. Statement that vendor will give vendee general warranty deed when contract is completed (paid in full)

- Vendor may give different deed if general warranty deed not available



Minimum Contents (cont.)

12. Statement that vendor provide evidence of title (according to local custom)



Minimum Contents (cont.)

13. If vendor defaults on any mortgage, vendee can step in and pay and use that payment as credit on land contract



Minimum Contents (cont.)

14. Statement that vendor will record contract
15. Vendee to pay taxes, assessments, etc. unless land contract says differently
16. List of any pending orders
 - Health violations, code order



Other Requirements

- Executed in duplicate
 - ❖ Copy to vendor
 - ❖ Copy to vendee



Other Requirements (cont.)

- Any mortgage by vendor must be less than land contract amount
 - ❖ Exception if mortgage covers this property plus another and this is told to vendee in writing



Other Requirements (cont.)

- No future mortgage by vendor for amount greater than the unpaid balance
 - ❖ Unless vendee consents



Other Requirements (cont.)

- Vendor shall record contract within 20 days of both parties signing
 - ❖ Copy to auditor



Other Requirements (cont.)

- Vendor must give statement to vendee at least once a year, vendee can ask for statement twice per year
 - ❖ Statement must say:
 - ❖ Amount credited to principal and interest
 - ❖ Balance still due
 - ❖ Land contract passbook = compliance
 - ❖ Need an amortization schedule or chart

Vendor Default

- If vendor defaults:
 - ❖ Vendee can sue in any court
(except mayor's court)
 - ❖ Court shall grant “appropriate relief”



Vendee Default (cont.)

- Must be 30 days before vendor can seek enforcement
- Vendee can cure if all is paid (including late fees) before 30 days has passed



Forfeiture

- Occurs if default is more than 30 days
- Can be something other than non-payment to vendor
(failure to pay taxes)

Notice

- Describes contract and the property
- States with specificity the default
- Tells vendee contract is forfeited if not cured on ten (10) days
- Tells vendee will have to leave

Notice (cont.)

- Similar to Notice to Leave in evictions
 - ❖ but not the same
 - ❖ Is legal equivalent to Notice to Leave
 - ❖ Section 5313.06 notice =
Section 1923.04 notice

Service of Notice

- Three Methods
 - ❖ Personal
 - ❖ Leave at usual place of abode or at the property subject to the land contract
 - ❖ Certified mail to last known address

Court

- Note that 40 days must have passed before filing
- Must foreclose if:
 1. If vendee has paid in accordance with the terms for five (5) years

OR

 2. Vendee has paid amount equal to 20% of purchase price

Court (cont.)

- Why is this important?
 1. Must file in common pleas court
 2. Longer
 - If trial, trial date is one (1) year from date of filing
 3. More time consuming
 - May need to file motions to get foreclosure granted sooner than trial date
 4. So may need a lawyer
 - Expensive



Court (cont.)

- May evict if:
 1. Contract is less than five (5) years, and
 2. Paid less than 20% of purchase price

Judgment

- For vendor means:
 - ❖ Land contract is cancelled
 - ❖ Judgment is recorded
 - ❖ Vendee's interest is forfeited
 - ❖ Exclusive remedy
 - ❖ No deficiency judgments
 - ❖ But can get damages for waste