

But for the Plan

(Buying Real Estate with Children? Stay on Title!)

Ms. Growski (not her real name) purchased a house with her daughter and son-in-law. She contributed about \$100,000 to the purchase price, and was on title as one of the owners. The extended family lived together for a few years. It was then decided that the house would be sold, as the younger family wanted to purchase their own home.

Her daughter and son-in-law told Ms. Growski that to qualify for a mortgage on their new home, they needed her name to be removed from the title to the house, before it was sold. As a trusting mother, Ms. Growski did so (Note: we did not act for her at that time – the lawyer who did, was never made aware of her contribution to the purchase of the house). She then moved out while the younger couple stayed in the home, to ready it for the sale.

When the house was sold, the young couple bought their new home, using all of the sale proceeds of the house they had owned with Ms. Growski. They refused to pay Ms. Growski her share of the sale proceeds, and were soon having trouble keeping up with all of their bills, including their new mortgage payments.

Frustrated with her circumstances, but glad to have her Unifor Legal Services Plan benefit, Ms. Growski went to see Kathleen Howes at the Brampton Staff Office. Kathleen started a claim against the children, in Superior Court, and also obtained a Certificate of Pending Litigation, which she registered against title to the children's new home.

Before the matter proceeded to court, the children put their home up for sale, and found a buyer. But because the Certificate of Pending Litigation was in place, the children could not complete the transaction without settling with Ms. Growski.

Kathleen negotiated with unsecured creditors who had filed executions against the home, and convinced them to take less than 100% of their claim, which increased the amount of money available after the home was sold and the mortgage was paid off. In the end, the net proceeds of sale (\$60,000) were paid to Ms. Growski.

As for the remaining \$40,000 owing to our client, that is still part of the lawsuit that Kathleen started on her behalf. Current instructions are to proceed to judgment.