Ask the Real Estate Lawyer

by Ilyce_Glink

Q: My sister and her husband purchased land from a contractor. The contractor informed them how much the land, plus the house, would cost and they secured a loan accordingly. After working side-by-side with the contractor for months and using their own tools and materials, they finally moved in last weekend. The following day, the contractor informed them the house would cost $35,000 more than they initially agreed on. Unable to afford this increase, they're moving out. Is this something they could have prevented in the contract? Does this situation happen frequently for buyers of new homes? And finally, can any legal action be taken against the contractor, or is this just a very sad lesson learned? A: Most new construction home buyers purchase homes from developers at a fixed price. Much like buying a new car, the developer builds the home, and any add-ons and upgrades increase the price. If a new home buyer makes no additions or upgrades, the price set forth in the contract is the price given the buyer. In rare circumstances, some of the risk of price increases is passed on to the buyer. The contract spells out those specific circumstances. In some cases, bad soil conditions can add to the price and larger builders will give the buyer some reasonable amount that could be expected due to the change. In most cases, however, the contract price, as adjusted by the upgrades and other selections, is the price paid. If the contract specified that your sister and her husband were to pay the builder's costs plus a mark-up, they would be responsible for the increased price. Their deal with the builder would not be too different from a situation where they hired someone to paint the house and the painter charged them for hours worked. The painter might provide an estimate of $5,000, but in the end, if the job took longer than expected, it could cost $7,000. Whether your sister and her husband can take any action against the builder depends on what the contract says. They need to have an attorney walk them through the details of the transaction. If the builder promised to deliver the home at a certain price, he may not be entitled to the amount he now claims he's owed. The real question you should be asking is why your sister and her husband are moving out. You indicated that they purchased the land from the builder and moved into the home. Why would they move out? They still own the land. Is the builder planning to buy the land from them? If the builder is buying the land, is he going to pay the market rate or the price your sister and brother-in-law originally paid? Your sister and her husband really need to consult an attorney as soon as possible and bring along all documents related to the case. There are some consumer protection statutes that might apply. While you don't claim that the builder acted improperly or tried to take advantage of this couple, in certain circumstances where contractors do take advantage of consumers, there are laws to protect them. Â© 2006 by Ilyce R. Glink and Samuel J. Tamkin. Distributed by Tribune Media Services.