Ray Mikkola - Running Time 2:24

(Music starts)

Title:
Ray Mikkola B.A. (Hons.), L.L.B.
Partner - Commercial Real Estate

(Pallett Valo logo)

New Title:
On the legal aspects of borrowing and lending money

(Music carries under visual)

(talking Head)

Let's talk for a couple of minutes about the legal aspects of borrowing and lending money. Now a loan transaction can be as informal as the parties want to make it. But you'll understand that it's an entirely oral arrangement with nothing reduced to writing.

("B Roll)

A lender's going to have some trouble collecting on its loan. It's going to have to show the existence of the loan, the amount of money that was lent, the terms of repayment, all ultimately to the satisfaction of a judge, all the while perhaps with the borrower attending and having a radically different recollection of what the deal was all about so good luck to those parties.

(talking head)

It's good advice for a lender always to get loans reduced through writing and it can be as a promissory note, sometimes colloquial known as an IOU where all the terms of the loan are set out and signed by the borrower. Now, here's a tip for a borrower. If you borrow against a promissory note, ensure that you only sign one promissory note for each borrowing and when you repay the loan, get the original promissory note back.

(“B” Roll)

Now the entirely informal loan and the promissory note loan each suffer from a characteristic that make those kinds of loans not particularly attractive to all lenders. And the reason is, the lender's ability to obtain repayment of its loan in both those cases is entirely dependent on the willingness or ability of the borrower to repay the money so if the borrower can’t be found or the borrower has no assets it’s very unlikely that the lender will get its money back.

(talking head)

So, that’s why lenders like to lend on a secured basis. And when the security that the lender takes is land, that secure transaction is called a mortgage.

(“B” Roll)

Now, a mortgage is a two-faceted document. It contains a promise to pay by the borrower, but at least as importantly when that mortgage is taken to the land registry office and registered against the lands of the borrower, it binds the lands of the borrower so when it comes time to repay the loan, that the borrower can’t be found or can’t afford to prepay, the lender has direct access to the land of the borrower, to sell the land, to generate money to repay its loan.

(talking head)

Now it can be more expensive to put a secured transaction into place; there’s legal fees and there’s registration fees, but a secured loan can ultimately be less expensive for the borrower because secured loans are universally charge less interest than unsecured loans. So think credit card debt as compared to your first mortgage on your home.

(Music end) Pallett Valo logo treatment