

Disclose the History to Avoid the Misery



Risk Factor #1

If the agent had disclosed the property defects to the Thompsons, litigation could have been avoided.

the facts

Mr. and Mrs. Thompson purchased a home in Oklahoma City in 2006. The house, which was previously used as a rental property, looked like it was in excellent condition. However, the Thompsons did not know that several of the previous tenants complained about various structural defects prior to their purchase. The sellers notified the agent of repairs that needed to be made, but the agent failed to disclose this information to the Thompsons.

The Thompsons did not have a home inspection completed, as there were several contracts on the property. After a heavy rain the Thompsons discovered there were several leaks in the roof, resulting in several thousand dollars worth of damage. That was only the beginning of the Thompsons problems. After a home inspection was performed, it was discovered that the leaky roof had caused mold and other defects such as electrical and plumbing problems and severe water damage to the walls. The home also had structural damage to the foundation due to a faulty septic system.

Risk Factor #2

The agent should have advised the Thompsons that it would be a wise decision to have a home inspection performed before the purchase.

the result

The Thompsons sued the sellers and the agent for failure to disclose the defects of the property. When the case went to trial, the sellers provided documentation that the defects were made known to the agent. The judge ruled “as a matter of law” that there were known defects and the agent failed to disclose them to the plaintiffs prior to the purchase. This ruling undoubtedly put liability on the agent. The case was eventually settled for \$50,000 on behalf of the plaintiffs, with defense costs of approximately \$30,000.

Real estate agents have an ethical obligation to disclose the defects of a property to their clients. Inadequate disclosure can be a costly oversight to both the agent and the sellers. In addition to any ethical obligation, most states have laws that require real estate professionals to disclose the known history of a property.



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