



Chas Everitt



Berry Everitt



Barry Davies

FROM THE PUBLISHER

Big news for our first issue of the year ...Chas Everitt International is all set to explode into KwaZulu-Natal in 2005 with the opening of five new offices in some of the province's top property sales areas.

This follows the recent decision by a consortium of top KZN businessmen and developers to invest in the establishment of a regional Chas Everitt International network - and months of planning by Barry Davies and his team to give the group an immediate "presence" as a major player in the region.

The first five Chas Everitt International offices in KZN will be located in Ballito, Umhlanga, Kloof, Berea and Margate and although the consortium will have an interest in all these operations, each will be run by a principal who also has an equity stake in the business.

We are very close now to finalising the buy-in agreements for these franchises with some of the top "names" in KZN's real estate industry, and enquiries are already pouring in from local sales agents keen to get in on the ground floor of the group's entry into the province. Longer-term plans are to have another 10 offices open in KZN by 2007, but for now, we'll just be happy to revolutionise property marketing practice in the region. Watch this space..

Your Area Specialist:

Chas Everitt International sales agents have all the latest market information regarding local property values at their fingertips - and are committed to the highest standards of personal service when it comes to selling your home. In addition, the Chas Everitt International property group offers you, the homeowner, the best possible exposure for your property in both national and international markets. So if you are thinking of selling your home, call your nearest Chas Everitt International office today for the name of your local area specialist - or visit www.chaseveritt.com

Every month the **Property Signpost Newsletter** will be issued to all our subscribers, filled with real estate information to help you make an informed decision, whether you are buying or selling a property.

In This Week's Newsletter:

- **The pitfalls of buying property privately**
- **Could you buy a property tax -free?**
- **Staging makes a comeback**
- **Tax 101 for foreign buyers, expats**

Email any comments to the editor:
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The pitfalls of buying property privately

Penny-wise homebuyers who try to negotiate a private sale with a seller in the hope of knocking the price down may find to their regret they have been pound-foolish.

The biggest danger for buyers in private transactions lurks in the "voetstoots" or as-is clause - because an untrained eye may easily overlook defects to the property that will require expensive repairs at a later stage. Agents are generally more experienced at spotting potential problems, and unlike sellers, are obliged in terms of their code of conduct to disclose any known defects to potential buyers.

Indeed, although agents usually act on behalf of the sellers in property transactions, their code does bind them to also protect the interests of buyers throughout the transaction - and thus to ensure that sales contracts are not one-sided or full of loopholes.

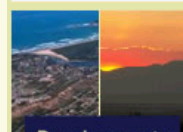
If it is not nailed down in the contract, the buyer in a private deal will have little recourse, for example, if the seller absconds with fittings such as blinds, carpets and eye-level oven - or when there is a gaping hole in the garden where the mature cycad once towered.

Unwary buyers signing a private sale agreement may also be in danger of losing their deposit if the sale is cancelled. Such contracts may contain unrealistic requirements regarding, for instance, the period allowed to secure a loan or to effect transfer, which may place the deal - and the deposit - in jeopardy.

Duties that often devolve to an agent, such as arrangements for cleaning the property before the new owners move in, upkeep and watering of the garden and arrangements for a full set of keys, are also often neglected in private sales.

Buyers should thus carefully weigh the perceived benefits of a private sale. They should ask themselves whether they really are saving money and whether it is worth running the risks.

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Could you buy a property tax -free?**Developments**

Have you ever wondered how estate agents are able to advertise some properties as being free of transfer duty? This happens when the seller - usually a developer - is a registered VAT vendor who has included Value Added Tax in the purchase price of the property, because the VAT this seller is obliged to pay across to the Receiver takes the place of the transfer duty payable on other property purchases.

And the absence of the requirement to pay transfer duty is of course a major factor in the popularity of many new developments, especially among cash-strapped first-time buyers - even though the inclusion of VAT in the purchase price often means that they are getting less home for their money than if they bought a pre-owned home.

A benefit that is not as much appreciated, however, is that if the property buyer is also a VAT vendor, he or she may be able to claim back the VAT or the transfer duty paid on the purchase of a property.

Tax consultant Paul Nelson warns, though, that "due to the large amounts being claimed it is more than likely that SARS will audit the validity of the claim" and will request the following:

- A copy of the sale agreement
- A detailed explanation of what the property will be used for. VAT or transfer duty can only be claimed when the property is used for the purposes of making taxable supplies. The use of a property for residential purposes - whether by the buyer or tenants - does not qualify. The use of part of the property for business purposes, such as a doctor's surgery, will probably entitle the buyer to a partial tax refund, and if the use of the property changes from being wholly residential to wholly business, the VAT or duty paid to acquire it may be claimed at that time.
- Proof that the transfer duty has actually been paid. The VAT Act provides that transfer duty may only be claimed to the extent that it has actually been paid. Transfer duty receipts should be available from the transferring attorneys once the transfer has been registered at the Deeds Office.
- Alternatively, proof that the VAT consideration has actually been paid. VAT may only be claimed to the extent that the total purchase price has actually been paid to the seller - by either the buyer or the bank providing a home loan.
Clearly, the process of making a VAT or transfer duty claim is not as straightforward as one might think, and buyers would probably do well to enlist the help of an accountant or tax consultant if they don't want to get tied up in miles of red tape.
- For more information on this topic, Paul Nelson can be contacted on (011) 325-4452

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Staging makes a comeback

During the past few years, sellers generally haven't worried too much about "staging" their homes for sale. The shortage of stock often meant that buyers were just glad to find a property and more worried about the price than about how it looked.

But the market is changing, and with more competition for buyers now, sellers are likely to find once more that it pays them to spend some money on sprucing up their property before putting it on show.

And some staging projects - like painting and changing worn floor coverings - may even pay back a premium on the amount invested. But even if you only recoup the money you spend on "staging", it will be worth the effort if it improves your chance of selling and reduces the amount of time your home is on the market competing for buyer attention.

Remember that most buyers have difficulty envisioning how a home will look cleaned up. They will generally retain their first impression of it and if it looks dirty, tired or neglected they will quite likely pass on it in favour of a better-kept home - even if the asking price is higher.

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Tax 101 for foreign buyers, expats

Foreigners or expats buying property in SA with the intention of becoming residents need to consider the tax implications.

For example, says attorney Andrew Duncan, whose firm specialises in financial compliance, foreigners who retire here or become permanent residents must realise that they will be subject to tax on their worldwide income - not just what they earn in SA.

It is true that if they first donate their assets abroad to a trust or to children, they will not be subject to tax on those assets when immigrating to South Africa, but they will still be taxed on any income they may derive from a trust, no matter where the trust is "resident".

Similarly, returning SA expats may be exempt from donations tax on "funds derived from any trade carried on outside the Republic" and may even keep these funds off-shore without disclosure, but they will be taxed on any income derived from the funds.

When it comes to Estate Duty, this is applied to the deceased estate of anyone resident in South Africa at the time of their death at the rate of 20 percent on his or her worldwide assets - with the exception of property acquired overseas before the person became an SA resident "for the first time" or received as a donation or inheritance from someone else who at the time was a non-resident.

It is important to note, says Duncan, that the Estate Duty exemption does not apply to overseas property that returning South Africans may have acquired while living abroad. "Obviously, if a person was born in South Africa he or she has already been a resident and any overseas property purchase could not be said to have been made prior to the person becoming an SA resident 'for the first time'. Thus any property acquired overseas will be subject to Estate Duty once they again become resident in South Africa.

Donations tax in respect of overseas property is not payable by foreigners even after they have taken up residence in SA - again subject to the property having been acquired before that person became a resident.

Capital Gains Tax, on the other hand, is payable even by foreign owners of property in SA who are non-residents. Says Duncan: "There are no exemptions from CGT except the well-known ones on primary residences. In fact the Income Tax Act will shortly be amended to provide for conveyancers to retain five percent of the first R1-million in proceeds to enable the Receiver to obtain payment of CGT from non-residents selling their property in South Africa. And if the foreign seller is a company or a trust, the percentages retained will be even higher - 7,5 percent for companies and 10 percent for trusts.

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