

Quitclaim deed, living trust transfer home ownership

By Ilyce Glink
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Q: I've had a shock. I just discovered that both names -- mine and my husbands -- were never put on our house deed when we bought the property over 40 years ago.

I just happened to go to the county website where we live in Ohio, and saw only my husband's name. I called the office, thinking an error had been made, and was told no, that only he owned the property. We were both shocked.

I need to know how to remedy the situation. I have left messages at a local title company but haven't received a call back. The real estate agent who sold us the property is long gone. Any help will be appreciated. Thank you.

A: When we get a question like this, it's typically from an older parent who has a paid-off home that he or she wants to leave to the kids. In that scenario, the question about adding someone to title is really a question about the best (and least annoying and/or expensive) way to inherit property.

In your case, the question is about titling an asset that should have been held by both of you but for some reason is listed in only the husband's name.

What happened to you isn't surprising. Forty years ago, there was rampant sexism in real estate. It was generally assumed that the husband was putting forth all the money and property would be titled in his name. Ilyce remembers going for her first loan and being told that her income (which was \$15,000 per year in the late 1980s) was inconsequential and didn't matter.



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When you closed in your town in Ohio, you and your husband should have been listed as co-owner, and chosen how to hold title to the property. While your name isn't on the property, your husband can execute a quitclaim deed, which would transfer the property from his name into both of your names, from a sole owner to joint tenants with rights of survivorship.

If he executes this deed, and then files it with the local recorder of deeds, the property will be transferred from his name into both of your names, and you will be the co-owner of the property. We assume you don't have a mortgage on the property. If you did, you could still transfer the title into both of your names, but the mortgage would still be in your husband's name alone.

Should your husband die before you, you would own the property outright. If you died first, he would again own the property. But you would be protected and the property would transfer cleanly, without going thru probate.

There are other ways to handle the situation. Your husband could put the

property into a living trust, naming both of you as the beneficiaries. You could then name secondary beneficiaries, such as your children (if you have any), and the property would transfer without going thru probate.

It's fortuitous that you found out now about this issue. We'd suggest you talk to a real estate attorney or estate attorney to figure out what might be best for you, your husband and your children. You should be able to do this for very little money, and it will certainly bring you great peace of mind.

One caveat is that in some states, recording a change of ownership can be expensive and cause changes in the assessed value of the home. If the recording of the deed is very expensive or will cause the local taxing body to re-evaluate the value of the home, you may have to figure out what your local taxing body will allow you to do to fix your issue. Some states will allow conveyances into living trusts for estate planning purposes without triggering some of the negative issues of a transfer of title by deed.

Good luck.

Finding REO lender may take a little bit of sleuthing

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Q: A house we are interested in was sold at a sheriff's auction. The big box lender bought it back. How do you get information on when the house will be sold by the bank, or how do we contact the bank to let them know that we are interested in buying house?

A: It seems to be a big dark secret when it comes to getting any information from big box lenders. Everyone always wants to know when a lender's Real Estate Owned (REO) department will put a house up for sale, but it's quite hard to get that information from the lender directly. We don't know why lenders are so secretive about this information but we've found that the only real way to obtain information about upcoming properties for sale is to know the real estate company and agents that the big box lender uses to sell these properties.

Let's start at the beginning: When a homeowner fails to pay his mortgage, the lender has the right to foreclose on the home. Depending on the state in which the property is located, the lender may have

the right to sell the home at a sheriff sale without a court judgment. While in other states, the lender would have to go to court, get a judgment against the borrower with the home eventually sold at a sheriff sale.

In either case, the likely outcome would be that a potential homeowner looking to purchase a distressed property could purchase the home at the auction or other similar sale. If the sale does not find any buyers, the lender bids what it is owed on the loan and gets title to the home. Once it has title, the lender can market the home for sale and even list the home for sale in the local multiple listing services.

That's why it's important to find out the name of the real estate agent or real estate company that represents the big box lender and see when the home will go on the market. If there are other homes in the neighborhood that were also sold at auction and associated with the same big box lender, you might want to call the listing agent of those homes and see if they know more about the property you are interested in.

If you don't have much luck finding the agent, you might try talking to real estate agents that work in

that neighborhood. Those agents may know the company that specializes in sales of REO properties. Frequently, brokers in the area know who the real estate agents are that specialize in REOs. Again, the real estate agent you find can help you with the purchase or you can try to get to the REO agent directly.

Finally, we should caution you that buying an REO property isn't always the same thing as buying a property that is listed on the market by caring homeowners. Many REO properties have significant issues and you should be careful if you decide to buy an REO home.

Typically, if sellers go into foreclosure, they've been broke for some time. Commonly, you see that foreclosed owners do not care for the home during the last months they lived in the home. So, you could have plumbing problems, mold issues, broken appliances (or missing appliances), and deferred maintenance issues that could cost you dearly. And, we've seen and heard of cases where pipes have frozen and caused huge issues in homes, roof leaks that weren't repaired, so be very careful and plan for extra expenses.



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