

BUYER BEWARE

Purchasing a home at auction can be risky



THINKSTOCK IMAGE

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Q : We bought a home at an absolute auction. The listing materials indicated that the home had a geothermal system. The seller's disclosure statement indicated that a heat pump had been added to the home. We were told the geothermal system was in the basement.

When we walked through the home, we saw a system in the basement that we thought was a geothermal system. We also saw a radiant heat system on the second floor of the house. So in our mind we were purchasing a home with radiant heating for the floors, geothermal for heating and cooling, and also a heat pump.

The auctioneer and Realtor told everyone that the geothermal was there but needed a part. After we signed papers, we found out later the geothermal system was pulled out a year and a half earlier by the seller's son-in-law who had lived in the home.

The system would cost about \$40,000 to replace. Do we have any grounds to collect our losses on this property against the Realtor or others? We tried to revisit the property before closing and were not allowed in to re-inspect. We did file a complaint against the Realtors and the auctioneer but their excuse was that they didn't know. They also said it was our fault for not inspecting it better.

They have hired an attorney.

Since the home didn't have the system, we resold it at a loss.

A : The rule in real estate is "caveat emptor," or buyer beware. It's been that way for centuries and only recently have state legislatures passed laws requiring sellers to disclose known defects and other material issues with the homes they are selling.

We do think you're at fault for not having the home professionally inspected. It seems clear that you didn't have sufficient knowledge of the home's systems to understand whether the home had a geothermal system or not. So, if you didn't have that knowledge or couldn't test the systems, we are unsure why you would proceed to buy the home.

When it comes to real estate auctions, you have to be even more careful than if you buy a home directly from a seller or through a real estate brokerage firm. Homes sold at auction usually are sold as-is and have no warranties in the contract. This means that a contract for a home sold at auction may give you no rights against the seller.

Given your situation and your loss, you should talk to a litigation attorney that has handled real estate fraud cases in the past. We don't know if you will get far with the auction house or Realtor, since they may have believed that the home had the system because the seller had told them so. The auction house and Realtor may be under no obligation to verify the

information given to them by the seller.

So, it may be true that the Realtor and auction house believed the system was installed when it had been taken out. However, the seller of the home may be at fault, but even the seller may not have known that the system had been removed by the son-in-law.

However, the laws in your state and your seller disclosure laws in your state might still apply and you might have an action against the seller. We don't know for sure how far you'll get, but you can discuss the facts with the attorney and he or she can give you a better idea of what the cost of litigation will be and how strong of a case you have.