Are You Being Served?

By Kerry Pechter *Sun, Feb 9, 2014*

After my father died, I called his reverse mortgage lender and said the house was theirs. Little did I know that I'd get "sued," that the house had to go through foreclosure and that the process would take over a year. There has to be a better way.

“All the heirs hate it,” rued the paralegal at the law firm that represented the company that held the reverse mortgage on my late father’s two-story condo in a development in suburban Philadelphia. They hate getting sued, that is.

I certainly did. As I explained to the paralegal, I answered my doorbell a few weeks ago to find an officer of the law on the stoop—a stone-faced Lehigh County sheriff’s deputy wearing a Stetson and a brush moustache who, after I confirmed my identity, handed me a thin sheaf of papers, stapled in the upper left hand corner.

Underneath a cover sheet that was peppered with opaque words like “prothonotary,” I found a “Complaint in Mortgage Foreclosure.” The plaintiff was an Austin, Texas, bank that I’d never heard of. The defendant was myself, the executor of my dad’s estate.

Leafing through the “complaint,” I was momentarily transfixed when I saw the phrase, “Amount Due: $264,566.57,” but exhaled when I reached paragraph 12, which said: “Plaintiff does not hold the named Defendants personally liable to this cause of action and releases them from any personal liability.” So why was I being sued?

When one or both holders of a reverse mortgage die, the lender can’t simply seize the house. In the Commonwealth of Pennsylvania, where I live, and apparently in other states, lenders must follow the same procedures that they follow when foreclosing on a home whose owner defaulted on a regular mortgage.

That’s a consumer protection measure. In the case of an ordinary mortgage, it protects impecunious owners from summary eviction. It gives them time to seek bankruptcy protection or repair their finances. In the case of a reverse mortgage, it gives the survivors an interval in which to decide whether they want to exercise their right to sell the house and pay off the reverse mortgage. If they’re not interested in keeping the house, it also gives them plenty of time—perhaps too much time—to empty the house of a parent’s possessions.

A widower, my father died unexpectedly during a short trip to Florida in early 2013. Expecting to return home to Pennsylvania within a week, he’d left the house in casual disarray. That’s how we found it. It’s a strange experience, walking through your late parents’ home for the first time. The contour of their lives is still there, as distinct as the impression left by a head on a pillow. I also felt like an intruder—the way I felt when I would arrive home from college, find no one home and the doors locked, and have to break into my own bedroom through a window.

My brother, sister and I needed time to decide what to do with my parents’ belongings. My father had left an entire household frozen in mid-stride. A pipe rack, briar pipes and ashes. Poker chips in an aluminum carrying case. Golf clubs and best-selling books from the 1950s. Cufflinks and a fake Rolex watch. My mother's decoupaged chairs and tables. Antiques, pictures in ornate frames, small appliances. Drawer after drawer stuffed with old letters, picture post cards, greeting cards and photographs. Sorting out all of this would take some time.

We siblings had never had a conversation with our father about exactly what would happen to the house after he died. (We'd never talked at all about his death, ever. We didn't know much about his reverse mortgage, except that he'd used his home equity to trade up to a larger condo instead of staying in his old place and taking cash out—which turned out to be a poor idea.) After finding the reverse mortgage documents among his papers, I called the 800-number and told a phone rep that we didn't want the house. She told me to wait for an update.

Months passed. Property taxes and maintenance fees were accruing, which made us nervous. We called the mortgage company again and were told to have patience during the foreclosure process, which was required by law and might last as long as 600 days from my father's death.

Then I started receiving letters from bankruptcy lawyers. At first, I didn't understand why. "Chapter 13 is an effective way to SAVE YOUR PROPERTY and put an end to the torment of debt," said one letter. "You may be able to stop real estate foreclosure eliminate unsecured debt and keep your property by filing a chapter 13 with only $331 and no upfront legal fees." Then one day, a few weeks ago, I found out why.

Without warning, a sheriff's vehicle (large five-pointed gold star on driver's door) appeared in my driveway, followed by the chime of my doorbell. After the deputy handed me the papers and drove away, I picked up the phone and called the plaintiff's law firm to ask what this meant and what I should do. The receptionist commiserated; she had heard this story before. Many heirs become frightened when a sheriff's deputy serves them with papers, she said. Some of them worry that their own credit rating will be in jeopardy, or that they might need to hire a lawyer.

If reverse mortgages are to gain greater respectability and popularity, this tactless procedure will probably need to change. Reverse mortgage brokers are well aware of this ham-handed process, and they don't like it. They know it's not helping their industry's image. "More clients are passing and I'm seeing upset adult children getting put through the wringer afterwards," Alain Valles, president of Direct Finance Corp. a reverse mortgage writer in Norwell, MA, told *RIJ*. "I've told fellow loan officers that we need to explain all this to borrower at the beginning of the process.

"But many clients don't want adult children to know what they're doing. In my own practice, we give the borrowers printed materials to give to the children. I agree 100% that the reverse mortgage industry is doing a terrible job communicating that the children have no obligation to do anything. Let's tone down the legalized rhetoric. On the other hand, too many people automatically turn the house over to the lender."

So there you have it. This clunky system is designed to protect the heirs from potentially losing valuable equity in the parents' homes, and it unquestionably does. But it also leaves many others feeling rattled and blindsided. There should be a more streamlined, and more civil way for reverse mortgage companies to take possession of these leveraged properties after the owners die. Tender feelings aside, the current method, with its long limbo period, must create extra costs for the mortgage company, which they undoubtedly pass along to their borrowers.