

Condo Lawsuit Serenade



This time the vocalists are Aventura attorney Robert H. Cooper, who has nearly an entire blog (negatively) devoted to him, and avid scrapbooker/Coffey Burlington attorney Susan Mortensen:

Brooklyn housekeeper Rita Dobrer was swept up in South Florida's real estate frenzy, using \$600,000 from a jury award as deposits on six condominiums in two Miami projects in 2005.

Dobrer said she never had the intention, let alone the financial ability, to buy the six condos -- which cost about \$3 million. Rather, she claimed she was enticed by the developer's verbal guarantees that she could reap \$600,000 in profits by selling the units without ever taking ownership.

Dobrer's hopes for a windfall, though, have cratered in the ailing residential real estate market. Unable to flip the units, Dobrer joined 35 other Russian immigrants in New York, New Jersey and Florida who on Friday sued Miami developer The Related Group for the return of the deposits on units in Miami's 50 Biscayne and Bal Harbour's Harbour House.

The allegation the condos were pitched as investment opportunities marks the latest twist in a mushrooming problem: buyers seeking to get out of contracts. Buyers have pounced on changes in units sizes, interior improvements, condo budgets and completion dates as reasons for escaping contracts.

Developers are facing dozens of lawsuits, if not more, from buyers, and the pace appears to be picking up as projects near completion.

"It's starting to snowball," said real estate analyst Jack McCabe in Deerfield Beach.

Developers aren't inclined to let buyers out of purchases, though. A Fort Lauderdale lawyer sued 22 town-house buyers in Fort Myers on behalf of a developer seeking to force them to close on their contracts -- even though they were willing to walk away without their deposits.

Related Group is fighting back, as well.

Miami lawyer Susan Mortensen, who is defending Related and other developers in similar suits, said many of the buyers who profited in the housing boom are unwilling to participate in the market's downturn.

"They are really profiteers. They are not victimized consumers," Mortensen said.

Aventura lawyer Robert H. Cooper, who filed two suits against Related on Friday, said developers shouldn't be surprised about the predicament they're in because they created it.

"They were, across the board, signing contracts with purchasers they knew did not have the ability to consummate the transaction," Cooper said.

"I'm a housekeeper," Dobrer added. "Who would give me a mortgage for \$2 [million] or \$3 million?"

If what Dobrer says is true, McCabe said it would illustrate just how speculative the condo-building boom in South Florida became. In essence, it would mean developers relied in part on shell buyers to meet presale requirements and qualify for construction funding.

Dobrer said Related wouldn't allow her to buy four units in her name at Harbour House for that very reason. So Dobrer said she, her two daughters, and sister each bought units with the proceeds from her court winnings from a car accident. Dobrer bought two units in 50 Biscayne.

"The question for the developer would be, how could you accept contracts from a housekeeper who obviously didn't have the income or the wherewithal to close -- unless you were guaranteeing she could flip them for a profit?" McCabe said.

Mortensen wouldn't say whether Related did any income verification or credit check of potential buyers.

"Purchasers have an independent responsibility to look after their own financial affairs," she said.

As for allegations that buyers were told they could flip their units for a profit without purchasing them, Mortensen said they either signed or initialed contracts that acknowledged no such representations were ever made.

Umm. This strikes me as a tough plaintiff's case. Verbal guarantees? And she wasn't just a housekeeper -- she had recently recovered in a personal injury settlement. And the contracts disclaim any representations about flipping the units.

More to come.