Removing the Unremovable

When I bought the Crafer farms for a dollar each I paid a very small but lawfully effective price for the right of occupation. Any ‘price’ we pay for land is just that.

However, as Westpac Bank had been given the Securities (name for big mortgages) over all the farms and they had a deal to sell to Shanghai Penxing, Westpac were very anxious to on-sell these bits of chattel paper.

The way banks use mortgages and via the mortgage gain possession of the land if you don’t pay them, is to put a ‘IRREVOCABLE POWER OF ATTORNEY’ [IPA] into your loan documents, since the advent of the electronic mortgage sometime in the 1980s there have been no paper mortgages.

So, you need to deal with this so-called IPA; Westpac’s lawyers wrote back to the Crafar’s after they had revoked the IPA saying something inane like “You cannot revoke an IPA because it’s irrevocable”; that is what is known as arguing in circles and works well on most lawyers and on all non-lawyers.

There are certainly circumstances where an IPA cannot be revoked, and these are the three circumstances.

1. If you die; obviously you are not able to revoke.

1. If you are declared mentally unfit or insane; this is why lawyers are keen to get irrevocable powers of attorney off old people, dementia is one of the ways you would be deemed mentally unfit to deal with your property or engage representation in court. Lawyers generally work for the bank not for you
2. Become bankrupt; a bankrupt is legally dead in the system. The Official Assignee takes over all your stuff including all land and leaves you with only the necessities and of course they cannot take the wages you earn from there on in. Banks don’t want you to be made bankrupt if they have your mortgage because then the State gets to control the land rather than the bank. The Official Assignee will make any sales rather than the Bank itself. Westpac didn’t make the Crafars bankrupt for this reason.

So how does all this stop you losing occupation; the answer lies in the actual transfer of the paper title from one purchaser to another.

The paper title (Certificate of Title with a unique ID) notes the mortgage that your bank holds; it is called a charge (it’s like a booby trap whereby you can’t transfer the title without a discharge of the mortgage) It is put there by your lawyer in fact; he or she has power as your attorney to do so.

As most of the process is by electronic signatures these days, the lawyer has a special licence from LINZ to do the land transactions online. The one we are interested in is the Transfer Transaction. Going back to the Crafar example again; after they had removed the power to be their attorney from Westpac, the bank should not have done any electronic transfers of the farms to Penxing Shanghai, because a lawyer doing the transaction must certify that they have the authority of the Transferor, that is, the Crafar farms directors, to do so.

I don’t believe the farm's titles ever transferred because when I wrote to the Attorney General of Land at the time, he acknowledged my letter by saying that he had placed his own caveat on the properties, and they have been managed ever since by Landcorp. I was unable to appeal my own caveat cases because I was made bankrupt by various banks along the way, as judges-imposed damages on me.

So now what is the method by which you remove an IPA from your loan documents?

1. Find the clause in the loan document and refer to it in your letter to the bank.
2. Write a letter to your bank and point out to them that you are not dead, insane or bankrupt.
3. Remove the IPA with words to the effect that you and your fellow mortgagors; if there was more than one who signed the loan documents, are none of the above.
4. Keep a copy and send the signed (witnessed at its signing by a JP) original by tracked courier post and get it signed for at destination. You will need to use a physical address for this, no Post Office Boxes.
5. If you have the property in a Trust the Trustees must be the ones who sign in their own names; there are no Trusts recorded on titles.
6. If a Company owns the property, then the company directors must sign. It is always helpful to do this in front of a JP who will certify for you, as who you are; take your driver’s licence or other form of recognised ID with you when you go to see the JP.
7. For your own sake keep it simple. I advise against all reference to living beings, affidavits of truth and the use of seapasses; you don’t want to be seen as being in category 2 of the above and not be able to remove the IPA.

God be with you.