



2 - Notes and Mortgages - ch. 2

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Definitions

▼ recourse and non-recourse loans

▼ recourse allows lenders to pursue the borrower's other assets to compensate for the unpaid balance on a default

▼ non-recourse allows lenders to only pursue the listed collateral for compensation

▼ reconveyance

▼ lender returns security instrument (Deed of trust) so Title is clear and clean of any promises

Resources

https://s3-us-west-2.amazonaws.com/secure.notion-static.com/b9f96a16-1190-40e3-98cf-a589b49b334b/NOTES_AND_MORTGAGES_-_Chapter_2.pdf

Big Ideas

▼ Notes

▼ Promissory Note

- ▼ documents a loan between borrower and lender
- ▼ must include: parties, loan amount, interest rate, maturity date
- ▼ usually includes clauses: amortization, assumability (due on sale), recourse/non-recourse, prepayment/lockout, assignment, default/acceleration
- ▼ only borrower signs

▼ Mortgages

▼ Mortgage

- ▼ 2-party security interest in real property - secures repayment of a real estate loan given by borrower to a lender

▼ deed of trust

- ▼ 3-party security interest - secures a loan given by a borrower to an independent Trustee to secure repayment of the loan for the lender
- ▼ borrower signs

▼ Senior vs Junior Mortgage

- ▼ determined by a state to determine priority of recording
- ▼ bypassed by a subordination clause
- ▼ construction loan
 - ▼ loan to construct a building/improvements
 - ▼ made against a maximum loan amount (Secured by mortgage/deed of trust against real property) usually with recourse to the developer
- ▼ purchase money loan - made for a borrower to purchase real estate

▼ Mortgage Failures

- ▼ Default
 - ▼ failure to meet the conditions of the Loan/Mortgage
 - ▼ usually a failure to pay interest or principal on time
 - ▼ can lead to acceleration of the loan and a foreclosure of the property
 - ▼ usually will have a default rate of interest for time past the maturity date
- ▼ foreclosure
 - ▼ lender takes title to real property or forces a sale to

satisfy unpaid mortgage balance

- ▼ can be judicial or non-judicial, with a deed of trust

- ▼ junior mortgages are extinguished when a senior mortgage lender forecloses on a property

- ▼ but, debt secured by the junior mortgages is usually untouched

- ▼ deficiency judgement

- ▼ a loan balance remaining after a judicial foreclosure sale
→ can become personal judgment against the borrower if the loan is recourse

- ▼ CA laws tend to protect borrowers from a deficiency judgment

- ▼ workouts and extension agreements

- ▼ lenders negotiate with borrowers to extend Maturity date, increase amortization period, or temporarily reduce mortgage payments instead of permanently lowering interest rate or reducing the loan balance

- ▼ preferred by lenders over foreclosures

- ▼ short sale

- ▼ lender allow sale of the property for less than the outstanding loan balance
- ▼ usually does not require borrower to pay the difference
- ▼ “taking the loss”
- ▼ bankruptcy
 - ▼ chapter 7 - liquidation
 - ▼ chapter 11 - reorganization
- ▼ acceleration
 - ▼ accelerates the date of maturity when payments are missed, etc.



SUMMARY