What is the effect of a gift of property?

Property Gifts and Transfer of Partial Interests · https://help.law.com.sg/faq/what-is-the-effect-of-a-gift-of-property/

You may make a gift of your property during your lifetime. Typically, your lawyer will prepare a Deed of Gift and/or a Transfer instrument, and the donee must pay buyer's stamp duty on the market value of the property or interest transferred.

Transaction is Voidable

For gift of immovable property within relevant period from the date of the relevant bankruptcy application in which the grantor is adjudged bankrupt, the gift is voidable at the option of the Official Assignee (OA) who may apply to the Court for the relevant orders under the Insolvency, Restructuring and Dissolution Act 2018 subject to the relevant provisions of the Act. The gift may be set aside and form part of the estate of the bankrupt grantor, and the grantee will lose his rights to the property.

Mortgage

In view of the implications of a gift transaction, a Bank is unlikely to grant financing with the property as a security until more than 5 years has elapsed from the date of the Gift.

CPF Charge

Where the property is subject to CPF Charge and part of the interest in the property is to be transferred by way of gift, the CPF Board would, before consenting to the transfer, require, among other things, a statutory declaration from the donor of the gift to state that he was solvent at the time of making the gift and he has not become insolvent as a result of the transaction.

Because of the serious consequences, before any gift of real properties, it is important that you discuss your intended gift with your Lawyer, so that you are fully aware of the implications resulting from such gift.

Subsequent Sale

An owner of a property which is subject to transaction at an undervalue (including a gift) as referred to in sections 361 and 363 of the Insolvency, Restructuring and Dissolution Act 2018 would find it

difficult to sell the property within 3 years from the date of that transaction.

For a sale and purchase transaction governed by Condition 10.2 of the Law Society Conditions of Sale 2020, a buyer may rescind the purchase on that ground, which is to protect the buyer who may not have known of the gift element prior to entering into the purchase. If there is a gift element or property subject to a transaction at a substantial undervaluation, the buyer would find it difficult to procure bank loan to finance the purchase price, and further, within 3 years from the date of that transaction, it remains voidable at the option of the Official Assignee as aforesaid.

Caution: This article does not provide legal opinion nor is it comprehensive nor free from error, and reader should read with caution and not rely on the same. You should consult your lawyer if you have any specific legal issue.