Forever Cash Real Estate Podcast 013

5 Simple Ways to Clear and Buy Probate Deals

Hosted by: Jack and Michelle Bosch

Intro: Are you ready to transform your financial future? Here's your chance to see inside the mindset of self-made millionaires, Jack and Michelle Bosch as they go back the curtain on secrets that can make you rich. Discover how everyday people are breaking the norms and building empires from the ground up using a little low yet proven and time-tested wealth building real estate strategies. It's my pleasure to welcome you to the ForeverCash.com podcast and introduce you to our hosts, serial entrepreneurs, investors, educators and best-selling authors, Jack and Michelle Bosch. Strap yourself in for the ride of your life.

Jack: And hello! This is Jack Bosch and…

Michelle: ...Michelle Bosch.

Jack: And, welcome to podcast episode number? I think...

Michelle: 12?

Jack: 13? Something like that. You'll see it in the title of the podcast whatever the episode is. I believe it's number 13 and welcome. We today... We actually know what we are going to talk about ahead of time.

Michelle: Yay!

Jack: We actually discussed it. And, we are going to do a short podcast, probably a little shorter than the other times. And today, we are going to talk about how to do a transaction where there's one or more of the parties actually and unfortunately passed away.

Michelle: Yeah. Or basically, the property owner is no longer with us and at that point you will probably be dealing with either a son or a daughter, whoever their heirs are and this is who probably...

Jack: Or multiple of them.

Michelle: Yeah, or multiple of them. And, these are more likely the people that have received the letter where you are inquiring on whether they want to sell their property to you or not. And so, these are the people that we are dealing with.

Jack: Exactly. Now, let me say first. We love those kinds of probate cases. Now, we don't specialize on probate. Our specialty is... Just if you've never been around the Forever Cash Real Estate Investing Podcast, then you perhaps don't know that we specialize on finding owners or finding people or properties where the owners have not paid the property taxes.

So, our specialty is tax delinquent real estate way beyond tax liens and tax deeds. Yes, we do some tax lien investing. Yes, we do some tax deed investing. But, our specialty is really taking the properties and finding the owners that haven't paid their property taxes way before these tax lien and tax deed auctions, way before they lose their properties by any of those means and instead, going circumventing the auction, going directly to the owners and buying these properties from them for pennies on the dollar.

Because, very simple, I mean, if somebody is losing their property to a tax deed sale where they sell the actual property at auction or losing their property to a tax lien sale where somebody is then foreclosing on that property... I mean, if you think about it, they basically have made up their minds and they are okay with walking away with zero money from their property because after a tax lien sale, there's nothing they get.

If somebody forecloses, the person foreclosing gets the property and the other person loses the property. And, in a tax deed sale, the high bidder gets the property and the former owner loses the property. But, with the way we have designed it, we can go to these owners and say, "Hey listen, you are about to lose your property anyway in the future. If you really don't want this property anymore, contact us and sell the property to us. We actually offer you cold, hard cash for your property," and they are excited about that.

Michelle: Yeah. So, let's get a little bit into the actual situation of... Okay...

Jack: Wait.

Michelle: But, wait. Okay.

Jack: By the way, if you haven't noticed, we are a husband and wife team, so we constantly interrupt each other. And, I wanted to just add...

Michelle: Yeah, I'm manterrupted right now.

Jack: I wanted to add one quick sentence to that. And, that is basically by going around these auctions, we get directly to the owners. Now, what happens is that a lot of times, these owners have... Well, they have situations. There might be... The reason why they let this property go might just not be the fact that they don't want it anymore. It might just be that... Well, somebody of their loved ones passed away.

Michelle: Yeah, and the kids just don't know what to do with it.

Jack: The kids don't know what to do with it. They don't want it and so on and so forth. But, that issue where somebody having passed away still needs to be resolved. But, before we get started, I want to just let everyone know and that's really the reason I, as Michelle says, manterrupted as a man interrupted her. I apologize for that.

I wanted to make sure that you guys know that we have a free gift for you on our website, www.ForeverCashFreedom.com. It's a free get started course, a free quick start into... The quick start to success course in tax delinquent real estate investing. You can get it completely for free at the Forever Cash website, www.ForeverCashFreedom.com.

Michelle: And, that's actually a good reason for the interruption. Then, go and get that free gift.

Jack: There we go. Okay. So, now Michelle, let's get started with the subject.

Michelle: Okay, so you've sent out a letter. You are probably dealing with one or multiple of the heirs of the actual property owner. And, they say, "Well, both of my parents owned this property together. They're both passed away or one of them has passed away and I'm helping my mother basically through this transaction or I'm helping my father through this transaction." And so, what happens is, it varies state by state and it also varies depending on how the property owners took ownership to the property.

So, I think an episode or two ago, we discussed a very simple way where the owners usually are joint tenants with rights of survivorship. And, that's the simplest way of basically passing ownership from one deceased spouse to the other because what that means is that they both own 100% of the property and once one passes away, whoever is surviving owns 100% of the interest in the property and that's very simple.

You file a death certificate with the county and then the deed from the surviving owner to you. But, what happens when for example the property owner owned this property alone just in their name but now there's a spouse or now there is children.

Jack: Well, what happens there?

Michelle: And, in that situation basically what you have to go through is what is called probate. So there's this blown-up version of probate depending on the size of the estate of the property owner. But, we have found for these pieces of lands or... I mean, mostly, it's for the pieces of land. You'll have this situation where it's homes as well. But, for the pieces of land basically, you can file what is called a short probate affidavit or a small estate affidavit.

Jack: So, probate is a big word. And, by the way, just quickly saying, we are not attorneys...

Michelle: Oh, yeah.

Jack: ...And, we do not play on our televisions and we did not sleep in a Holiday Inn Express last night, so therefore, we do not give legal advice here. What we just want to share with you a little bit in this podcast is our experience of having come across deals like that and how we fixed them.

Michelle: Yeah.

Jack: So, we are basically telling you stories of how this works. In any case, we have not done deals in all states of the United States. We've only done deals in about 17 or 18 states of the United States. We just called it a bit, by the way. But still, there are states that we do not know the rules of.

Michelle: Yeah.

Jack: But, what we have found is what Michelle just said. It's a state by state thing and some states, if somebody has passed away and it was his property and might have had three kids and the kids never probated his will or there was a will for that matter which is...

Michelle: Yeah, because I want to make and ring out distinction. So, will is just a list of wishes.

Jack: Right.

Michelle: It's not designed to basically pass on ownership of a property. It's just a list of wishes where a person wishes for these things to go to this person, for his personal property to go to another person...

Jack: Right.

Michelle: ...For his paintings to go to yet another and so on and so forth.

Jack: So, if somebody has a will, that is already a good thing so everyone should have their own will. Because when you pass away, whatever assets you have otherwise will be decided by somebody else how they get distributed. But, if you have a will that's signed and notarized, therefore, whenever the heirs probate that will... Whenever basically that's it's now their estate, when now it goes to the point of distributing what you've left behind, there's a guideline. There's something that the court, the judge can basically decide by and that weighs very, very highly and that's... Any heir that disagrees will have a hard time overcoming.

So therefore, a will is a great thing to have. But, let's take a simple scenario right now. There's one person that owned the property. He passed away. Both owners, a husband and wife, passed away and there's only one heir and the heir lives... It's one child and it was a house as that. And now, let's say that house is used as a rental property and the heir, let's say it's a daughter, lives on the other side of the country. All right? A very popular, a very common scenario.

And, in this case, what happens now is, well, the daughter perhaps keeps renting the house out. She keeps paying the property taxes and she keeps collecting the rent until one day perhaps the tenants move out and leave the property kind of a little bit, not vandalized but less than optimal. Perhaps the daughter doesn't have the money to fix the property and now the property stays empty for half a year. Then, perhaps some squatters come in or perhaps some people come in and steal the copper. And so, all of a sudden the house gets deteriorated more and more and the person still has to pay the... Now, he doesn't have the income anymore. He doesn't have the money to pay the property taxes and that's how this entire tax delinquent thing starts.

But, at the same time, now it goes further down the road to properties 2 or 3 years delinquent. It's closed to a tax deed sale and now our letter comes in. And, in this case, when our letter comes in, she calls us. And, she says like, "You know what? Well, I got this house. I really don't have the money to do anything with it. It's pretty or probably vandalized by now. But, the thing is, it's not in my name. It's still in my parents name and if I could put it in my name, I could sell it because right now, I can't even sell it. So therefore, I'm letting it go for tax sale."

Michelle: Uh-huh.

Jack: And, that's a very kind of often heard scenario that we come across.

Michelle: Yeah, very common.

Jack: So, in this case, what do you do? What do you do Michelle in that scenario if that happens?

Michelle: Well, like I said, it depends on the state. But, most states here in the Southwest, like I said, they have what is called a small estate or short probate process and it depends on the size of the estate. For example, there are states where if the estate is anywhere between $25,000 and $75,000 which for most pieces of land, that is the case.

Jack: Perhaps it can be the case. It depends.

Michelle: But, there are states where it would go all the way to $100,000 and it will still be considered a small estate or short probate. And so, if you know that the estate of this person basically falls below these levels, there is... There are simple forms usually that you can obtain either through the clerk of the court or the assessor and basically help complete that form for whoever the heir is. And again, we are not attorneys, but this is what we have done in the past to help the heir that we are dealing with to basically transfer ownership from their parents to them and then from them to us.

Jack: So, in other words, again just quickly, this is called a small estate probate process.

Michelle: Or, short probate.

Jack: Short probate. And, one of the things you can do...

Michelle: And, the forms are either called... I'm sorry. The form is either called a small estate probate form, an affidavit of heirship or an affidavit of succession. So, those are some of the names.

Jack: Right. This is... These are some of the terms that we referred. There are probably other terms out there in other states for these things. But, what we usually do is when we go and want to find, when we do a deal in a new state and we come across this situation which invariably in a tax delinquent arena you will come across because as I mentioned earlier, that is a common scenario there.

And then, when we come across one of those, we just simply go to Google and put in "small estate probate" and then the name of the state that we are looking to do this. And then, what comes up are multiple things and you got to really read through a couple, like a page or two of like details because there are some states where the small estate probate is restricted to non-real estate assets.

Michelle: Oh, that's right.

Jack: And, I've only found one and I believe that was, I think, Georgia. It's either Georgia or somewhere around Georgia where it was restricted to only non-real estate assets. Don't hold me to it, but that's what I think right now. But, in many other states like California, for example, there are actually two of such small estate probate processes. One for assets that are... Or one for probates that are under $25,000 and one for probates that are under $100,000 but above $25,000. And, I'm stressing the word probate versus assets...

Michelle: Yeah.

Jack: ...Because they are different. The really key distinction here is that it's not just the item that they are selling that needs to be under that threshold. And, what you are effectively doing with those forms that Michelle just talked about is you are effectively doing a probate and passing on the assets from the deceased parents or deceased person to the living seller. And, what you are doing…

Michelle: The entire estate and not just the property.

Jack: Exactly. And, what you are doing there is you are passing the entire estate in that state. Now, estate in that state. So basically, if that person had a car, a motorcycle and a house in California and he had another house and another car and another motorcycle in Texas, when you do this in California, you are passing not just the house, but the house, the motor cycle, and the car in California through from the deceased party to the seller, to the person you are dealing with. But, the stuff in Texas is actually not touched by that.

Michelle: Yeah.

Jack: So, it's all they've left behind in one state that's being passed through probate. So, that's an interesting kind of thing to remember. So, one of the questions you want to ask your seller when you are dealing with probate is you ask him, "Is that house or that piece of land the only thing that dad, mom, uncle or whatever there's left behind and if they start listing up...

Michelle: In that state.

Jack: In that state, in that state, exactly left behind in that state. And, if they started listing off another whole bunch of other things, then you got to add up the estimated value of that and if the estimated value of those things together go beyond the threshold, then you can no longer use the small probate or the short probate or the small estate probate forms.

Michelle: Forms, yeah.

Jack: So, that's something important to distinguish.

Michelle: Yeah. And, if that is the case and if there's enough margin in the deal and you realize that the value is beyond, you simply look for an attorney that specializes in probate. It's going to probably be a 60 to 90-day process. And, it's going to be anywhere between $1,500 and $2,000 or $2,500.

And so, it can be a little bit more lengthy. It can be a little bit more expensive and depending on where you're at in terms of your sense of urgency on whether that property is coming up for auction soon or not, then you may or may not have that time.

So, assuming that it is below that threshold or that value that we were talking about, and then like I said, you submit these forms to the court. There are usually filing fees and they are anywhere between $200 and $400 and the process through the court takes anywhere literally between an hour and six weeks.

So, I've had counties here in the state of Arizona where I've hand-delivered the paper at the court. I've gotten it stamped and I've gotten a certified copy, and then I go to the recorder and record that, and then record the deed from the person to us. And, within an hour or an hour and a half, I've had all the transactions completed.

Jack: Including the probate.

Michelle: Including the probate. Yeah, absolutely.

Jack: Yes. And, we have had other counties where we had to send this in and then six weeks later, a judge actually looks at it, signs and stamps it and approves it, and then it gets sent back to you. But, the bottom line is it is still a usually fairly quick process. It's much less expensive because all you pretty much have to do is to get the form which is for free from the county or usually county or state websites. And then... Or, a title company can usually give that to you too.

Michelle: Yeah, absolutely.

Jack: And then, it’s that filing fee of between... I think the lowest we've paid was $110 or $150 and the most we've paid was like $400 for that. Still, compared to a full-blown probate with an attorney, it’s a bargain and it usually happens at six weeks. This one was like an exception. Most of the other ones take between an hour and two weeks.

Michelle: Yeah. And, two weeks. And, I think the time that it was a little bit longer, I think, was in California. Because in California, you actually need to... along with the short probate form, you also need to get an appraisal. And, that appraisal needs to be done by a...

Jack: A certified appraiser.

Michelle: Yeah, the court has designated certified appraisers to do that. And so, sometimes, the time is being enough by trying to get the appraiser to actually get it done and once this person has done the appraisal, then you can submit that appraisal with your form to the court and basically get it done.

Jack: Right. So, that’s one beautiful way to do deals that a lot of people don’t know. By the way, what Michelle talked at the very beginning of the podcast, it's just... If they owned the property, if the deceased party has owned the property as joint tenants and one is still alive, then in some cases, you get deals where they still think it’s a probate case where it's still like, "Well, my mom is still on the deed and it's only me and my dad right now that’s still alive but my mom is still on there. And, we can't sell it without her being off the deed so we don’t want to go to a probate,” not knowing that all they need to do, if they owned it in joint tenancy, is file a death certificate. So, a death certificate in that scenario of a deed with joint tenancy with right of survivorship, is a form of probate. It's just a very simple form of probate.

Now then, of course, there are more complicated forms of probate. For example, we had a case... Actually, we are doing a deal right now with one of our students in our program that's our House Flipping Probate Program, which is a program that I teach people all the way how to get houses flipped in them. But, it’s also a partnership program where we allow our students to pass deals on to us, and then we flip those deals together.

And, if you want, you can find more about that at www.FlipItFastFormula.com. Again, FlipItFastFormula.com and we have the links. It's all in the show notes at www.ForeverCash.com/Podcast. So, you can go to ForeverCash.com/Podcast and look at the show notes for this episode. And, you'll find also the links right there along with the notes and the transcripts and all those kinds of things.

So, bottom line is in this particular case is it's an uncle that has a right into the property along with the seller. So, that person that owned the property has passed away but he left behind a will and in the will, there are two heirs. And, one of them is the uncle and one of them is the person that we are dealing with.

The problem is the uncle has disappeared, completely disappeared from the face of the earth. He was last seen like 20 years ago when he took a flight to Hawaii. So, nobody knows if he is still living somewhere as a hermit in the Hawaiian jungle somewhere or what happened, if he passed away or so on.

So, in this case, what happened is... This case is a case where we just basically said, “You know what? This is nothing we can handle. Let's find a good attorney to handle that.” And, we found a good attorney, a probate attorney that was able to handle that. And basically, what is going to happen is the part of the money that we are paying for that property is going to be held in court for that.

It's actually in court for that uncle, and then still, the probate is going to go through. The uncle is going to be declared missing and basically yet still a part of... Therefore, allowing the other heir that was the seller to sign all the paperwork to sell the property, but then, half of the proceeds of the sale goes into the court funds.

And then, just as a courtesy, our attorney will help the person selling us the property and also to declare basically the uncle dead because nobody has ever heard of him for the last 20 years. Not even skiptraces and not even private detectives could find him anymore. So, in this particular case, it's a more complicated probate.

And then so, the seller gets half of the money now when we buy the property and half of the money once he successfully declares his uncle dead, and therefore, he gets all the money. Now, he understands that it's the only way for him to sell that property so he's playing ball. He's very corporative and everything looks good in that deal.

Michelle: Yeah. Now, I do want to mention this also. So, this is with an attorney so that's fine.

Jack: A way more complicated.

Michelle: A little bit more complicated. If you were doing this alone though and you were dealing with the heir, I always like getting the deed that transfers ownership from the heir to us signed at the same time that they sign the probate form and I like having that in my possession because I don't want to run into the situation where I basically bring this person through the probate process and once they... I've done this for them and they changed their mind about selling their property to me.

So, I almost always ask that they also sign in parallel at the same time that they are signing the probate forms the deed that transfers ownership from them to us. And basically, I keep that on a file and once the probate has gone through, I record that document or a certified copy with the county recorder and that person is off title and the new heir is now the new owner. And then, I go ahead and record that deed that I have already had signed from them to us transferring ownership from the heir to us. So, that's just a precaution.

Jack: Yeah, that's a great point. That's a great precautionary point. So, it's really a protection, as Michelle said, from them changing their minds because one of the reasons they let property go is of course the probate, but another one is usually they don’t have the money to go through the probate themselves. Otherwise, they would do.

So, if you laying out that money for them, you want to have an insurance that they will not change their minds afterwards. And, by having those deeds signed before you agree to pay for the probate and either keep those deeds with yourself in a drawer or obviously if you do this to a title company, the title company does it for you and they keep those deeds in escrow, then everything works well.

And, the other thing you want to do if you discover something like that is you want to make sure right away that you extend your sale agreement because a full-blown probate in this case might take two or three months. And, if you only have a 45-day close of escrow, it might not be enough time to close the deal.

So therefore, when you find out that you have to go to a full-blown escrow or even a short escrow and it’s in a county that might take six weeks, make sure you get the contract extended right away to like four or five months so that you have plenty of time to get through that. You get those extra deeds signed and put into escrow or signed and sent to you. And, in that way, you have the assurance that everything will go through just fine at the end of the day.

Michelle: Yeah, absolutely. And then, another situation that could also happen is that the state has been probated, but for some reasons, that property is still in the ownership of the deceased property owners instead of the heirs but it has been probated. And, in that case then, you will probably have a situation where the heir will already have a will and there will be an executor to the estate.

And, in that case, the executor is the person that will basically transfer the ownership if the estate has been already probated and will transfer ownership to either the heir, and then from the heir to you through something called an executor's deed. So basically, it'll be from the deceased property owners by the executor’s deed to the heirs, and then from the heir in a separate deed to you. So...

Jack: Right. That’s another good thing. Now, just to calm you everyone down listening to this... If you are listening to this saying like, “Oh, my God! That all sounds complicated,” no, don’t worry about it. This is all being done usually by a title company. The title company knows how to do those things. But, it is important that you learn what they are doing and that you understand what they are doing.

Michelle: Yeah.

Jack: So, none of this actually, at the end of the day, you will have to do yourself.

Michelle: Yeah.

Jack: But, after listening to this podcast hopefully, you have an understanding of... And, you might want to listen to it two or three times to really get the nuances of what said here because we covered like four or five different scenarios here that you will come across in your tax delinquent real estate investing career. And, when you do, be aware that the title company can handle that. But also, what's going to happen is, and I predict this is that, you are going to come across a title company that doesn’t know what to do.

And therefore, if you understand what we just walked you through, you can just go to the title company and can say, "Hey! Why are you saying you can’t close on this thing? Because it’s a probate, why don’t you...? Why are you telling me that it needs $2,500? I just looked it up in X, Y, Z states or wherever you are." Let's say, “California has this small estate probate process for $125,000. Why don’t you do that?” And, you tell the title company how to actually close on the deal. And, many times, we have had to do that particularly when we are dealing with perhaps a not so experienced escrow officer or title officer.

Michelle: Yeah. Yeah.

Jack: So, this is really the last thing I wanted to mention.

Michelle: Yeah.

Jack: Michelle, do you have anything to add?

Michelle: No, I think that’s it. Yeah. If anything and there's another situation and it’s very close to the joint tenancy which is the community property with right of survivorship where again, the death certificate is the simple way of removing...

Jack: Which is a formal ownership that only exists in few states.

Michelle: Yeah.

Jack: But, if you are operating in a state where there is such a thing as community property with the right of survivorship, then great! Then, you can do the exact same thing. Basically, you can kind of and you might want to check that with an attorney kind of. If you are here of if you have the work with right of survivorship, then just recording that death certificate will take that person off the deed, with the premise of course that you are off title or with the premise of course that you have been with that person on title or the seller has been with that person on title before in the first place.

It does not transfer the property ownership from one person to the other. It only transfers it from, if there's two people on the deed and one passes away, it takes one off the title and leaves the other one on there. Or, if there are five on there and one passes away, it takes that fifth off and leaves the other four on. It does not take it from those four to yet a completely separate number fifth. For that, you still need that traditional or the short form probate. All right?

Michelle: Yeah. And, that’s all we have.

Jack: That’s all we have. So again, thank you very much for listening to this podcast. We enjoyed having you on this. We enjoyed recording it. We enjoyed making it.

Michelle: Yeah, absolutely!

Jack: As always again, your free gift is at ForeverCashFreedom.com. It's a free kickstarter course, a very quick start to get right to the meat of it course that shows you multiple different ways to do deals in the tax delinquent area. Also, the meeting notes again are at ForeverCash.com or the podcast notes are at ForeverCash.com/Podcast. So, ForeverCash.com/Podcast. And lastly, we would love for you to give us...

Michelle: To give us feedback or give us a review.

Jack: There you go! Give us a review. For that, I believe you can rank us like with one to five stars... Obviously, the more, the better, right on your iPhones, iTunes app. And, I think you have to go the actual iTunes app on your desktop to actually write a review. We would love to get those reviews from you. There is already quite a few on there and we love hearing them. We love seeing them. So, we would love for you to do that for us. All right? With that, we say thank you.

Michelle: Thank you very much.

Jack: And, you have a wonderful, wonderful month!

Outro: Thanks for listening to the Forever Cash Freedom Podcast. Subscribe now for future content-packed episodes on how to push the ejector seat on your financial hamster wheel and discover our radical way to freedom and wealth through cutting-edge real estate investing strategies. To learn more about living the "Forever Cash" lifestyle, investing smartly and becoming financially free, visit www.ForeverCashFreedom.com to claim your free "Forever Cash" Starter Kit today!