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LEGAL GUIDE OF THE PROPERTY PURCHASE PROCESS IN SPAIN

Updated on April 27, 2021, in accordance with the Decree-law 7/2021, of April 27, from the Andalusia Government about the reduction of the Transfer Tax, and the Stamp Duty for the promotion and reactivation of the economy of Andalusia, as consequence of the financial crisis arised by the pandemic of the coronavirus (COVID19).

Power of Attorney:

To make you easy whole buying legal process, we take care of everything.

Should you not be able to be present to sign all the necessary documentation related to the purchase process, it would be recommended for you to grant a power of attorney to your legal representative. The power of attorney would list all the duties that can be carried out by your lawyer in your name since the beginning of all buying and/or selling operations. You could either grant a Power of Attorney before a Notary public in Spain, or in your country. If you need to formalize the power of attorney in your country, your lawyer will prepare the document in Spanish and English to be signed before a notary public in your home country and then provided with the “Hague Apostille” which validate to foreign documents in Spain.

N.I.E. Number:

If you are willing to buy a property in Spain you should first get the NIE, which is the non-resident identification number for tax purposes. It is a good idea to arrange this in advanced as it is needed immediately to complete at the Notary and to enable you to pay the legal taxes. To obtain it, you need to make an application at the National Police Station and to submit a photocopy of the relevant pages of your passport. You have also the option to contact with the Spanish Embassy of your country to help you in this matter.

Reservation Deposit:

Once you have identified a property which you wish to buy, you may be asked to leave a small deposit, typically an amount of €6,000, to reserve the property. At the same time, you may be asked to sign a Reservation Agreement.

Once the property is reserved in your name with a preliminary sales contract, it is important to get the information on the property regarding land register and legal issues.

We arrange the necessary to get the “Nota Simple” and check the title deeds in order to find out if the property is free of debt, if it really belongs to the seller, and if the description of the property matches what the buyer has been told.

The seller of a secondhand property should provide the receipts of payments of the real estate taxes (IBI, Rubbish taxes), utilities and community bills, to make sure that they have been paid up to date.



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Completion:

The property sale process finalizes with the buyer and seller signing the Deed of Sale (Escritura de Compraventa) before the Notary Public.

After the deeds have been signed, the buyer is handed the property keys, and can take possession of the property.

Inscription:

After signing the Title Deed the taxes which are generated by the transaction must be paid, and only then can the Deeds be delivered to the Land Registry for inscription.

This is probably the most important stage of the purchase and it is vital that the property be inscribed in your name at the earliest date to protect your interests.

Utilities:

After the sale has been finalized, your lawyer should carry on with the post-completion matters; he should arrange the necessary to ensure you all the property's utility contracts (water, electricity, telephone, rubbish collection, etc.) are under your name. He should also arrange for all your bills to be paid by direct debit to your bank account.

PAYMENT OF TAXES

The relevant taxes (stamp duty, VAT if a new property or Transfer Tax if a re-sale property) must be paid within a fixed legal period to avoid fines:

Impuesto sobre transmisiones patrimoniales (I.T.P.):

Transfer tax payable when you purchase a secondhand property is 7% until the 31st December 2021 (instead of the 8%, 9% and 10% previously forced, depending on the price of the property).

Impuesto sobre el Valor Añadido (I.V.A):

This is the Spanish equivalent of VAT, applicable when you purchase a new property from a developer, the rate is the 10% of the price.

A.J.D. (Stamp Duty):

Stamp duty is payable by the purchaser at 1,2% of the purchase price on new property until the 21st December 2021 (instead of the 1,5% previously in force).



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Municipal Plus Valía:

A local tax based on the increase in the value of the property from the last transaction. It takes into consideration the cadastral value. It must be paid within the 30 days of completion at the Town Hall with a copy of the new Deed.

Before completion, you can ask for a statement from the Town Hall. In any case, the estimated amount is usually withheld by the buyer's lawyer from the purchase price.

Real Estate Tax (I.B.I.):

All property owners in Spain (residents and non-residents) are obliged to pay the Real Estate Tax (Impuesto de Bienes Inmuebles - IBI) annually to the Town Hall where the property is registered.

The amount of the tax is calculated by reference to the official value of the property (valor catastral) registered in respect of all properties in Spain, it will be also determined by other circumstances such as location, size, nature of the land, etc.

The IBI receipt shows your property cadastral value, which is very important as many taxes are based on it. The receipt also contains the cadastral reference number, which is very important figure as well

Community Bills:

If you have bought an apartment or villa, which take part of a building complex, keep in mind that these will be subject to the Spanish Law of Horizontal Division (Ley de Propiedad Horizontal). According to this law, all property owners of the block form the Community of Property Owners (Comunidad de Propietarios) are responsible for their individual parts and common areas of the block. They shall maintain the common elements of the building. All of them participate in the expenses of the community on a pro-rata basis. Every owner must pay their community fees established by the members at the Annual General Meeting.

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This is only a summary of the process for the purchase of a property in Spain, for you to have a rough idea.

Keep in mind that each individual case can vary and the regulation, as well.