

Purchase Process

Investing in Spain or another country is like starting a new trip, an attractive expedition or like the beginning of a dream that will come true. Success in this matter will depend on your selection of the best legal partner.

Indeed, coming to Spain for investment or just for a holiday is an adventure, but if you are buying a house, chalet or whatever property in this country, you will need:

- 1° A real-state agent to help you find the property that you are looking for,
- 2° A good Lawyer who works in the same area where your chosen property is located.

Your Lawyer will give you all his legal knowledge and professional experience in your benefit, and only a professional located in the area has all the qualities required; In the same manner that we would look for a local guide for a trip, we should look for a lawyer that works and knows the area where we are purchasing the property.

It is easy to understand how the conveyance contract in the Spanish legal system works: When you are interested in a property the agreed vendor and purchaser with the help of their respective lawyers will negotiate and duly sign a private contract of conveyance that coincides with the payment by the purchaser of a deposit of 10% of the property price; This is usual in Spain and this amount will be handed to the buyer's lawyer or directly to the vendor as a deposit of guarantee.

The contract now exists and has its own life, it is perfected, but it is not yet concluded because the property has not been transmitted to the purchaser. This is one of the vendor's obligations, which usually complies with the completion of the signing of the title deed by the public notary. The contract has already been born and also has its own life as an existing agreement between both parties over the property and its price but it is not finished yet. The final stage of the contract coincides with the fulfilment of both vendor and purchaser of all their obligations, which is basically paying the price by the buyer and giving up the possession or ownership by the vendor., In the Spanish legal system the exchange of keys may be done at the completion of the title deed with the notary. At this moment the property will be acquired.

If you are unable to be in Spain for the completion, we can arrange for a general Power of Attorney to be signed by you so we can complete all the formalities on your behalf. In fact, for the convenience of our clients, it is the policy of our Company to have general Power of Attorney in place at the beginning of every purchase transaction. We can draft such a Power for your signature in the presence of a Notary in Spain. If it is more convenient, the Power of Attorney can be signed in the presence of a UK solicitor and we can arrange to send them our model copy for it to be processed in the UK.

Having concluded the conveyance and also acquired the property it will be necessary to register our property on the Land Registry, for several reasons:

1. To ensure that the property recently acquired may not be sold to others possible buyers.
2. To show and demonstrate to third party our right and property circumstances as it appears on the Land Registry,
3. To apply for a mortgage on the property.
4. To avoid an impound due to debts of the preceding owner, etc..

At any rate you could ask the notary to forward a fax to the Land Registry requesting a provisional declaration of the change of ownership over the transmitted property. Your lawyer should present the original copy of the contract to the Land Registry within ten days.

Once the Title Deeds have returned from the Land Registry, a process which can take up two months, we will arrange a suitable time for you to collect them from our offices, together with all other documentation that you will need to keep (N.I.E. Certificate, Title Deeds, Insurance Policy, empadronamiento certificate etc.)

But what are you legally buying?: At the time of acquiring a property you should basically be interested in two outstanding matters: on one hand the possible existence of previous charges over it and on the other hand an assurance that your title deed remains yours as sole owner.

1º) The property should not have any kind of charges (apparent or not), encumbrance, lease, previous taxes, community debts from the owners community etc. Your lawyer will ensure this and will ascertain the property situation at the Land Registry, in relation to debts with the Town Hall and with the community of owners etc. Only after this research can he know exactly the property's situation that you are acquiring.

2º) The property and ownership acquired by the purchaser is, once duly registered on the Land Registry, public and evident with all the legal publicity against third party that -is presumed- know its content.. It is also useful to take catastral constancy of the property, an administrative owners control.

Finally, you should bear in mind the complex legal reality of the area in which you are buying your property. It may span several legal systems, e.g. to town-planning and real state regulations within Central Government, Regional Community, Town Hall, etc. so that there exist several different rules that govern the same matter, above all, in respect to rural areas. Generally town-planning and agricultural rules demand:

- 1) That the new building is permissible over a determinate area, for example due to be reserved to agricultural cultivation.
- 2) That the plot has the minimum area for building.
- 3) And finally, it should fulfill other limitations about: house area, number of floors etc..

In conclusion, on the Costa de la Luz one of the most relevant problems has been the ground shortage for building, due to a lack of survey and planning activity describing legal ground for building; Individuals have been concerned about giving legal solutions to the private sector for ensuring the safety of their real estate transactions. This has given rise to figures of plot sharing, and the selling and conveyancing of villas and plots in respect of horizontal (or vertical as is usually known) property division etc..

All of these cases of property purchasing may be absolutely legal and guarantee your safe acquisition, but in any case, it would be very advisable, to begin this trip in a suitable manner and be accompanied by a lawyer who is dedicated to the area in which you are thinking of buying your property. Only he will be capable enough to know both the legal and property characteristics of your next villa and appropriately advise you.