

## **Buyers Guide**

The process of buying a Property in Spain is straight forward when you know how and we strongly recommend that you instruct an independent lawyer to act on your behalf.

Below you will find an outline of the general procedure which will have to be followed when purchasing property in Spain.

### **Where and What to Buy?**

We recommend that you have a 'one on one' consultation assess your requirements.

It is a good idea to tour the area yourself before even starting to look at property to find out which area you like. Take a camera; speak to people who live in the area, read the local newspapers which are often printed in an English edition to give you an idea of the community and infrastructure within that area.

If you will need to make frequent flights you will probably be better nearer an airport.

If you have health issues consider buying in an area with a large municipal hospital and good GP services.

If you have children you may need to be near International Schools.

Budget- your money can buy you far more property inland than on the coast.

### **What type of Property should I Buy?**

This depends on how much time you are going to be spending in the property but if it is for use only as a holiday home or a buy to let investment then an apartment on a complex with swimming pool, security etc is well worth considering. The communal gardens and swimming pools are well maintained by the development and are not there the property is secure within the compound. Some developments even have a Management Office who will arrange rentals and clean and look after your home between visitors.

Private villas are much more time consuming and the time spent gardening and cleaning the swimming pool etc could eat into your valuable holiday time unless you could afford the expense of someone looking after it while you are not there. We also recommend a viewing trip.

## **The Legal Process**

The procedure usually follows the following steps although cases vary depending on whether you purchase new or re-sale property, and also according to the area in Spain you are buying. Your lawyer will guide you through this and answer any questions you may have. Do not be frightened to ask questions and insist that your lawyer puts things in writing to you. Modern technology means that you should be kept informed every step on the way. If preferred. We can supply you with a list of recommendations.

## **Using an Agent**

As in every other country you will need to find an Estate Agent who speaks your language. Normally the estate agent's fees are charged to the seller of the property not buy the buyer but it is always worth checking this with any agent before going ahead with any viewings. It is useful to have an agent you feel has good local knowledge and with whom you would feel comfortable spending a day in a car.

A good agent is essential when you buy a property in Spain. We can provide you with a selection of properties for sale from our database and can recommend a good lawyer (who speaks your language fluently) to take you through all the different steps, some of which are different to those in the UK or other countries. If we do not have the ideal property we will do our best to find it for you using our networks of offices.

## **NIE Number**

At the earliest possible time we recommend that you apply for an NIE number ( a foreigners identity number). This number is necessary when carrying out our financial transaction in Spain including buying property.

The NIE numbers are issued a the National Police Station in the town where you are purchasing the property and you need to apply for these in person. Unfortunately, there are few hard and fast rules with regard to making the application as each town has its own rules. You will need your passport and a photocopy and complete the application form in duplicated using black ink. It is always useful to have several spare copies of passport. You should go to your nearest National Police Station usually between the hours of 9am and 2pm and complete the N.I.E application form. Be prepared to queue. We provide a member of staff to assist you.

Often, your estate agent will assist with this formality and they generally know the procedure in the area where they operate and will give you further guidance as to what additional, if any, documents you need to present.

## **Making an Offer and Paying the Reservation Deposit**

Once you have identified a property which you wish to buy, you will need to make a verbal offer through the agent which will need to be accepted by the vendor. At this time you may be asked to sign a Reservation Agreement. It is normal practice here in Spain to pay a reservation deposit to the vendor, usually between 3,000 and 5,000 Euros. It is therefore always better to speak to a lawyer and confirm instruction to them before you arrange your viewing trip. They will then be in a position to check through any document you are asked to sign. A reservation deposit is not normally refundable. You should never pay a deposit without a reservation contract which should be in Spanish and signed by the vendor any yourself. If you require a mortgage it is important that you have an offer in principle before you commit yourself to the purchase.

## **Purchase Contract**

This purchase contract is a legally binding document and once you have signed this you are committed to the purchase. You are required at this stage to pay more substantial deposit. The amount could vary between 10% and 50%.

It is important that this contract is checked by your lawyer to make sure that all your rights and the vendor's obligations are incorporated into it. Often what is missing from contract is more important than what is included. The English version of the Contract may not be an exact copy of the Spanish version which is the legally binding document.

Your lawyer will check that the vendor is the true owner of the property, carry out a Land Registry search, ensure that the property has no debts or encumbrances ( such as unpaid mortgage) and that the building is legally registered.

If you do not comply with all the terms of this contract you may stand to lose all monies paid.

## **Instalments**

If the property is under construction you will be required to pay instalments which should reflect the stages of the building process. Bank or insurance guarantees should be offered by the Developer to cover each individual interim payment.

## **Mortgage**

You can either have a European mortgage through your existing property.

Usually you can only borrow 70% of the purchase price if you are a non-resident but this may change. You could have a combination of 70% European mortgage and 30% re-mortgage. Rates in Spain are cheaper at the moment than the UK but the cost for arranging the mortgage are high. If you are buying a new build property a firm mortgage offer will only be given once the property is completed and the valuation has been carried out. The bank is separately represented at completion and they are there to protect the bank's interest. We can recommend FSA regular advisors to assist you on this matter.

## **Completion**

The final payment is made at the time of taking possession of the property and this transaction is recorded in the Title Deed ( Escritura de Compraventa) signed before a Notary Public. If you are unable to appear in person at the signing you should give a POA to your lawyer to act on your behalf.

At this time, any existing mortgage should be cancelled. If you are taking a mortgage with another bank the loan amount will be paid directly to the vendor on completion.

Many changes and debts incurred by the previous owner can be registered against the property if left unpaid and it is your lawyer's job to ensure that you buy the property free of any encumbrance.

Once completion has taken place certain fees and taxes must be paid. See our Spanish property tax information to find the additional fees to expect during the purchase of a Spanish property.

## **Insurance**

Once the owner of the property you should ensure there is adequate building insurance and contents insurance in place. If a mortgage was used to buy the property this is a mandatory requirement. Buildings are usually insured by the community if the property is on a complex.

## **Payment of Taxes**

The relevant taxes (either IVA (VAT) if a new property or Transfer Tax if a re-sale property) must now be paid within a fixed period of time to avoid fines. It is your lawyer's job to ensure that the appropriate completed forms are sent to the Tax Authorities on your behalf. Stamp Duty is payable after completion of the property at 1% of the purchase price.

## **Registration (Inscription)**

Once the taxes have been paid, 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.

## **Wills**

Spanish inheritance law is very different and quite complex compared to UK law so it is important to have a Spanish will in place to ensure that your wishes are respected.

Technically a valid British Will can be used in Spain but a Grant of Probate would have to be obtained which can be a lengthy and expensive business.

The level of inheritance tax paid by your heirs can be significantly affected by the way that a Spanish Will is prepared. At the moment inheritance tax is higher if you are non resident. Wills have to be signed in front of the Notary and you have to be present for this. A POA is not acceptable, so ensure that you arrange for your Wills to be signed either at the completion of your property or on one of your planned visits to Spain.

## **Utilities**

Once you have possessions, utilities need to be contracted and this can be a lengthy and complicated process fraught with bureaucracy. If you are buying a new build property you should ask your developer to help with your connection. Your lawyer will be able to advise you on the best solutions for you.

