

Purchasing Procedures for Buying Property in Spain

THIS IS AN OVERVIEW OF THE LEGAL PROCEDURES AND SHOULD BE USED AS A GUIDE. IT IS NOT INTENDED TO BE LEGALLY ACCURATE AND VARIATIONS WILL OCCUR IN INDIVIDUAL CASES

Purchasing property in Spain is a relatively simple procedure. Once you have found a property our local company will be happy to assist you with every aspect of your planned purchase.

We recommend that all purchasers use the services of a Spanish resident, but English-speaking solicitor (called an Abogado). We can recommend several, or you can choose your own.

Your solicitor will draw up a preliminary contract stating the details of the property you wish to purchase, at which time a 10% deposit is to be paid to, and held by, your solicitor to secure the purchase.

When all necessary searches have been carried out and the paperwork checked to ensure the property is free of debt and the seller is the registered owner, the deposit is paid to the seller and the deposit becomes non-refundable.

Once this deposit has been paid the seller cannot back out of the sale, nor can he raise the price or change the contract. Should he do so, then the purchaser is entitled to a refund equalling twice the amount of the deposit.

The balance owing for the purchase is normally required within six to eight weeks of the deposit being paid. In the case of a new property the payments are made in agreement with the builder / developer.

An "Escritura de compra-venta" (conveyancing deed) is drawn up which transfers full legal title to the buyer. This is signed by both parties and is witnessed in a Spanish Notary's office. When you sign the document, the notaries' office writes this in the property register (registro de la propiedad)

You will receive a "Copia-Simple", which is sent to your solicitor. Once complete, this "Copia-Simple" will be converted into an "Escritura Publico" or final Title Deed.

Land and planning permission

There is a great deal of confusion as to the rules (Normas) that govern the construction of new properties in the countryside. These notes do not apply to building in urban areas i.e. a village or town. The rules for urban areas vary from village to village.

PLANNING

The rules for planning permission also vary from village to village. However, the laws operated and enforced by the Andalucian government in Seville are as follows.

An area of 30,000 square metres is needed for the granting of planning permission. It is not permitted to split land or to combine separate parcels.

The only alternative to this is that land having an existing, registered building which has previously been used as a dwelling will enable the granting of planning permission.

Many village councils will grant planning permission on land areas smaller than this. In general, architect's plans have to be submitted to the town hall, together with an application for planning permission. Only when this has been granted, and paid for can building work legally commence.

REGISTRATION of a new property

When the property is finished, a certificate is needed from the Architect which states that the building has been satisfactorily completed.

This document is then taken to the town hall and a certificate of first occupation is issued. This is needed before the electricity company will supply a meter. It is also the document which triggers the registration of the dwelling at the Land Registry in Malaga . Registration is need for a subsequent sale of the property.

VERY IMPORTANT

It should be noted that the Land Registry office in Malaga will only register the property if the rules issued from Seville have been complied with. Therefore, if a house is built on an area of less than 30,000 square metres, or on land which did not have a registered ruin then the planning permission may be legal, but it will be impossible to register the property. Any subsequent sale of the house will therefore be jeopardised.