



PRIMROSE
REAL ESTATE

Legal Process

If you are thinking about buying a property here on the Costa del Sol, you may have heard that the process in Spain is very different to your own country, and you may even have heard some bad stories about the difficulties others have encountered. We have put together a general guide, which outlines the stages involved and what you are required or advised to do at each stage.

Stage 1: Reservation Deposit

Once you have chosen your new home, the first step is to lodge a holding deposit with the Estate Agent or your lawyer (usually 6000€) and sign a reservation document. This document will be signed by you, the seller and the Estate Agent, confirming that all parties involved agree to the accepted purchase price and the time frame of the transaction.

Stage 2: Private Contract

Approximately one month after the holding deposit has been paid, both parties have to sign the Private Purchase Contract and the second deposit made. For re-sales, 10% of the agreed price is paid at the signing of this private contract. For "Off Plan" developments this percentage will be determined by the developer.

This private contract is similar to the reservation document, but includes the final terms and conditions of the offer. This stage is the first real legal stage and the supervision of a lawyer (abogado) is strongly recommended.

The lawyer will carry out a full property investigation to find out what debts, taxes and the like are associated with the property. Here in Spain, any dues in regard of taxes or community fees or utilities etc. are attached to the

property and not the owner, and therefore are transferrable. Accordingly, it is very important that these are fully researched.

The property conveyance carried out by your appointed lawyer will check for the following (if unsure about any of the terms, we will explain): 'Nota Simple' (probably the most important document during a sale, this document holds all details relating to the property from the very first day), IBI (property tax), Community fees, Existence of an Energy Efficiency Certificate (now obligatory by law in order to sell property in Spain), utility bills.

Stage 3: Completion

The purchase is formally completed when the Title Deeds are signed before a Public Notary, the agreed balance of the purchase price is paid and the ownership of the property is passed onto you the buyer. The Title Deeds always stipulate that the property is sold free from charges and encumbrances.

Important:

Allow approximately an additional 10 -12% of the purchase price for costs and expenses (The Spanish national average is 12%).

Cost involved are:

- a) Property transfer tax (IVA): for re-sales below 400.000€ you pay 8%, above this amount it becomes 9%. If you buy straight from the developer (if new build) you pay 10%.
- b) Stamp duty and notary costs: The notary is a public official who is present at the signing of the Title Deeds to make sure both parties agree and understand the Title Deeds that are being signed. We can offer basic guidance regarding the property purchase process however we always strongly recommend you use a lawyer in all property transactions, they have the legal knowledge and skills to guide you throughout the process.
- c) Lawyer fees: usually 1% of the purchase price. They will provide the legal guarantees for the purchase of the property ensuring that Spanish legal requirements are met and that the property is bought free of encumbrances,

charges, debts and is up to date with all its payments of local contributions and community charges.

- d) Mortgage costs: if you need a mortgage, we can recommend local banks. The bank will charge their additional costs.

Complementary tax

We must advise that in Spain there is something which is called “Complementary Tax”. This is where the Authorities believe that the stated selling price is too low and that the corresponding tax is likewise too low. They have the power to assess a value which they believe the property should have been sold at, and the difference between this and the actual price you pay carries a tax demand. Historically, the Authorities have lost tax on property sales due to “black money”, or the inclusion of furniture and fittings as separate parts of sales.

There is a real possibility of receiving a Complimentary Tax demand after you have concluded a purchase, or a sale. The important point is not that this happens; but that you are aware of the existence and that you make the appropriate budgetary allowance to cover any possible later demand.

It is also important to note that you do have a month in which this complimentary tax demand can be appealed, and this is always an important point to discuss with your legal advisors. We always, bring this up at the appropriate time, and give our advice as to what you should do and who you should speak to.

Documents Needed by the Buyer

- a) Passport or ID.
- b) NIE: national registration number, given by the national police. In Spain you will require this for almost everything, from opening a bank account which you will need, to having a contract for telephones, utilities etc.
- c) If purchased in the name of a foreign company: a national fiscal number (NIF), this can be applied for by a local accountant or lawyer.
- d) If purchased in the name of a Spanish company (CIF): a local accountant can set up the company.

We can assist with the above and recommend suitable lawyers and or accountants.

After Sales

Once you have bought your property, you will then need to arrange, utilities, telephones, ADSL, all registrations, community fees and the like (including IBI). Also if you have an imported car, or wish to take pets over, your lawyer can take care of these “aftersales” once the purchase is completed.

However, you will be paying lawyer’s rates for these. We also carry out these services for many of our clients which obviously are at costs which we believe are more realistic for the corresponding services.

You may find the above a bit daunting, but with the right advice and putting reliance on the professionals, buying a property here can be as simple as in your own country. We pride ourselves in giving the best customer service and we will help and advise you before, during and after your purchase. Over the years we have gained the local knowledge and experience and are more than happy to help, any way we can. We also have many reliable contacts on the coast; lawyers, notaries, banks, insurance, etc., which we will gladly recommend to you during the process and at the appropriate stage.