

# Property Buyers Guide

THIS article is intended as a general guide to buying real estate in The Canary Islands. It has been compiled from the knowledge and experience of a number of professionals involved in the selling, buying and conveyancing of property in Spain, but it should not be taken as a substitute for proper legal advice. It is intended only as an explanation of the system, customs and practice that you will come across, should you be interested in buying a home on the islands.

## Deciding the Location

You need to decide whether your property is intended for holiday use, longer-term visits, or whether you intend to live here year round. Your choice of location should take your needs into account, such as schools, medical services and recreational outlets.

## Choosing an Estate Agent

This is a serious purchase, and you need professional help. Find an Agent who is registered, either by having the initials API and a registration number after their name, which shows they are a member of Spain's College of Estate Agents, or the letters GIPE, which shows they are a member of the Association of Property Promoters.

In addition you will now find branches of Estate Agents from other European countries, but ALWAYS deal with someone established with their own office. You are buying in a foreign country; it is essential to know that they will be around for some time.

## Choosing the Property

You need to know a great deal more about your property than you would if you were just spending a couple of weeks there. If there is a community association, ask your neighbours if it is well run. Ask about the community fees - don't forget that if you are in a Community you are legally obliged to pay them or you could lose the property.

## Buying the Property

The first essential thing before you part with a penny is to make sure that the person selling you the property is entitled to do so. Any agent worth his salt will have carried out a basic search and will be able to show you that this is correct. Your agent will be able to supply you with a list of suitable Lawyers to act on your behalf, the British Consulate in Las Palmas will provide a suitable list on request, if required. Your lawyer needs to check out your intended property thoroughly.

The process is not dissimilar from the UK and a check of legal title will be made through a search in the local Land Registry Office, which will also indicate if there are any mortgages or charges against the property. If you are buying a plot of land, the lawyer will also check if you can obtain permission to build on the land and what size and type of property you can build; there are zoning controls on this island as well as anywhere else and an old document presented to you pertaining to be planning permission may well have changed in the interim period.

Once your lawyer has assured you that all is in order, you will need to sign a Contract of Purchase raised by a lawyer, and pay a deposit, which is usually 10% of the intended purchase price; the lawyer who has been appointed to arrange the signing of the Title Deed normally holds this deposit.

The contract will state the terms and conditions of the sale and will state a specific time for completion of the transaction when you must produce the balance of the price. If for any reason you decide, up to this completion time that you cannot proceed with the purchase, you will forfeit the deposit paid, but if the seller changes his mind, he must return the deposit to you in full, plus a compensation payment for damages. Obviously if a lawyer is holding these funds then there is no problem in the purchaser's deposit being refunded.

The next step is to complete the transaction by making the outstanding balance of payment and signing the title deed, which is known in Spain as the Escritura; this must be done in the Notary's Office. The Notary's task is to ensure that all of the legal documentation is correct, he will also carry out a search in the Land Registry Office on the day of signing to check the current status of the property or land, and will require the last annual rates receipt from the council in which the property is situated, that this is up to date as well.

It is essential to ensure that your lawyer has current receipts for all other payments such as water, electric and community charges, as debts, such as these in Spain are levied against the property and not the owner. When in the Notary's Office, you will be asked to produce your passport as evidence of identification. You will also be advised to obtain a NIF number, Numero Identificacion Fiscal, which your lawyer can arrange for you.

## Paying the Price

If you are not a resident in Spain and are buying property or land it is advisable to bring your money from abroad to complete the purchase, it is simple to open a non-resident account in a local bank, and your estate agent will normally help you with this. You can then transfer your funds from your own bank in the UK, to this new account. On the signing of the new Title Deed your cheques for payment will be shown to the Notary and included as part of the documentation of the deed.

They must be inscribed with details of the property or land to be purchased, or have an investment certificate from the issuing bank

attached. The Notary will also require you to sign a Spanish ministry form, declaring that the investment has been made. It is also possible when purchasing from a non-Spanish resident, to pay the completion funds abroad in any currency. In this case, the deed will state an equivalent amount in E as this gives the value in which the transmission tax (stamp duty) is calculated. You may have to produce more than one cheque as in many cases non resident vendors may be liable for capital gains tax. In this situation a sum of 5% calculated against the value declared in the title deed will need to be retained and paid to the Spanish Tax Authorities.

This will be noted in the deed and the lawyer acting for you will then make the payment to the tax office. The cheque for this 5% retention, which is made out to the Tesoro Publico, should also be inscribed with the property details shown to the Notary, as it forms part of your overall investment in Spain. Non-resident vendors who have owned a property for a period in excess of ten years before December 1997 will not be liable for capital gains tax, and the 5% retention will not be required at the point of sale.

The vendor normally pays the Estate Agents fees and the details of the specific percentage to be paid will normally be noted in the Purchase Contract. Beware of some unscrupulous illegal agents have been known to charge the purchaser as well as the vendor for their fees. You may well also find that the price of your title deed is not exactly the same as the cost of the purchase, as some sellers prefer to treat the furnishings and fittings, if they are included, as a separate item.

## Registering the Purchase

Signing the escritura in the Notary office does not yet mean that you officially own the property. For the transaction to be complete you must register the deeds in the Registro de la Propiedad (Property Registry). When the deeds are taken to the Registro, the purchase tax of 6% of the value of the property must be paid. Later the Registro will write to whoever presented the documents and ask for a second payment to cover their charges.

In addition, you will be responsible for the payment of a tax to the Local Authority, based on the increase of values of land in their area since the property last changed hands, and known as Plus Valia. Your Lawyer can get an estimate in advance of the purchase, so that you have the funds ready. At the same time, a form should be entered to the local authority, advising them of the change of ownership. You should remind whoever is doing your paperwork about this, as it is often forgotten.

## Costs to Look out for

Other bills, which will have to be paid, include the Transmission Tax, the Plus Valia, the Notary's bill, the fees from the Registro and the bill from your Lawyer, will probably come to about 10% of the purchase price. Your Lawyer will ask for these funds to be placed with him before the work is done, as too many times clients disappeared leaving these bills unpaid. However, it cannot be stressed enough, though, that you should deal in these matters with a professional person who is well established.

## The Community Association

Spain has firm laws on how a Community Association shall be run, and the Instituto de Propietarios Extranjeros publishes a very good booklet explaining this law. Information about your Association has to be freely available to you, as do the accounts, which have to be published to the members every year. Belonging to a Community Association brings many advantages to the owner who does not intend to live in the property year round, as you can be sure that someone will be keeping an eye on things when you are away.

Should you be buying a property on an Urbanisation you will find that there is a Community Association, of which you must become a member. Each property owner on the site owns a percentage of the communal areas, and is responsible for making a payment to the Association for their upkeep. You should check before you buy that your Community Association is functioning well, how much the monthly payment is, and whether the payments for your intended property are up to date. If these payments are not made the Association can eventually seize your property, so be careful.

## Outstanding Bills

When you buy a property you become liable for any outstanding bills for water, electricity, local rates and community fees. Both the Electricity Board (UNELCO) and the Water Company (INALSA) have forms which you and the seller must sign, to transfer the bills into your name. When you go to do this you should check that all payments are up to date. Local rates are payable at the Town Hall. You or your representative needs to visit the Oficina de Recaudacion at the Town Hall to give them the form changing the rates into your name, and again, checking that all payments are up to date. As bills are not sent out for the rates, property owners often forget to pay them, and they can soon mount up. ■



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