

Buying real estate in Spain

A brief and general description of some issues to be aware of when purchasing real estate in Spain.

How to purchase real estate in Spain?

Private purchase agreement: Buyer and seller enter into a private purchase agreement containing information about the property and the terms of purchase.

Title deed and notary meeting: In Spain, the real estate transaction is carried out by the buyer and seller signing the Spanish deed in person in front of a Spanish notary. At the notary meeting the buyer must also pay the purchase price to the seller, who must hand over the keys to the property to the buyer.

Registration: The deed must then be registered in the Spanish property register to ensure the buyer is entitled to the property.

Power of attorney: Instead of attending the notarial meeting in Spain in person, you can give a power of attorney to your lawyer, who then signs the deed on your behalf. The power of attorney can be signed in your home country, so the trip to Spain can be saved.

An independent Spanish lawyer or an unauthorized advisor?

In Spain, there are a large number of unauthorized advisers who offer legal counseling and to assist with the execution of the real estate transaction, just as some Spanish lawyers seem to have no problem offering to take care of the interests of both seller and buyer in the same transaction.

It can therefore not be said sufficiently often that the buyer in particular should be advised by an indepen-

dent Spanish lawyer and not by an unauthorized adviser or seller's lawyer.

Property Check

In Spain, a property is purchased as-is. Therefore, the buyer, prior to signing the purchase agreement, should have a number of matters investigated:

Land register: Is the property properly registered? If this is not the case, it may be because the seller has made illegal additions or alterations.

Ownership: Does the seller have a registered title deed?

Liabilities, mortgage: Are there registered any mortgage or other liabilities on the property?

First occupation license: Issued by the municipality as proof that the property is suitable for habitation. If it is not available, it may indicate that the property has not been finally approved by the municipality.

Survey and ownership insurance: In Spain, a technical property survey is not prepared and no change of ownership insurance is taken out.

Contract Check

The purchase agreement contains important terms and should be carefully reviewed before signing:

Payments: The buyer often pays 5-10% of the purchase price when signing the purchase agreement, without the seller providing any kind of security.

Liabilities: If the property is sold free of liabilities, this must be stated in the purchase agreement.

Date of notary meeting: At this time, the buyer must be in possession of original Spanish NIE document as well as financing.

Breach of contract: Buyer loses amounts paid (10%), while seller must pay double to buyer (10% + 10%).

Non-resident seller: Buyer must withhold 3% of the purchase price when seller is non-resident.

Refund statement: Buyer should be able to withhold a reasonable amount of the purchase price as security for payment of Spanish property tax due, plus valia tax, owners' association contributions, electricity, gas, water, etc.

Notification address: Provide an address from which inquiries received will certainly be responded to.

Notary meeting

At the notary meeting, a number of personal information and documentation must be available:

Documentation

- Valid passport
- Original Spanish NIE-number
- Notarized power of attorney (translated into Spanish and Apostille stamped)
- Marriage covenant (translated into Spanish and Apostille stamped)
- Payment documentation (purchase price)

Personal information

- Profession
- Address
- Civil status (married, divorced...)
- Marital property regime (separate, joint ownership...)
- Name of Spanish tax representative

Purchase costs

Depending on the purchase price and where in Spain the property is located, the buyer must, as a general rule, anticipate purchase costs of approx. 11-14% on top of the deed price.

Purchase costs	% deed price
ITP (transfer tax)	8,0 - 11,0
New construction: No ITP instead VAT and AJD (stamp duty)	10 + 1,5
Registration	0,2 - 0,4
Notary	0,4 - 0,6
Lawyer (excl. VAT)*	1,0

*Many lawyers have a minimum fee of 2,000 – 2,500 euros for assistance with a real estate transaction.

Annual taxes, etc. of a property in Spain

The annual taxes etc. of a property in Spain depends on the value of the property. For a property worth 200,000 euros without rental income and a Spanish tax value of 60,000 euros, the annual tax budget looks something like this:

Annual taxes on a property with a deed value of 200,000 euros	Euros
IBI (Spanish property tax)	200 - 400
Income tax (non residents)	300
Wealth tax*	0
Fee Spanish tax return	250
Fee tax representation	240
Foreign property tax	**

*Wealth tax is payable only when the Spanish net worth exceeds 700,000 euros. Read our wealth tax fact sheet for more information.

** Consult with your tax adviser in your home country.