

## **STEPS IN PURCHASING A PROPERTY**

We wish to make your visit to Javea as easy as possible, whether or not you finally to purchase a property.

Listed below is information that hopefully will give you useful guidelines to take you through the process from our initial contact with you to the actual visit to the Notary to complete the purchase.

We strongly recommend that you use a lawyer. It is not essential but for your peace of mind we would suggest that it is preferable especially in light of certain instances that have occurred in our time in the property business in Spain. We can recommend a reliable Spanish lawyer who is fluent in English.

As explained there is great value in doing as much as you can as early as you can, even if you do not make a purchase initially, such as applying for an NIE and opening up a bank account. This is covered in these notes.

The subjects we cover are:

Visits to properties with us

Deciding on a property

Contract and deposits

NIE (Identification Number)

Banks and mortgages

Property Searches

Declared value

Visit to the Notary

Costs and Fees

The Escritura

Services

Taxes

and at the end some key summary points.

The notes following are prepared to give prospective clients some guidelines. It is not attempting to be a full and complete note about purchasing a property in Spain and is our best endeavour to assist you by giving some pointers.

***Jo and Tony Henderson***

Javea Online

## Visits to Properties

Having discussed your requirements over the telephone we will have agreed an appointment on specific days and times. We will know where you will be staying and will have a contact telephone number for you during your stay.

We will have selected a number of properties for you to visit from our range of agents. We will prepare a listing of these properties with appointment times.

From discussions with you we may have a full day where we can show you perhaps 15 properties or alternatively morning or afternoon visits where we may show you 7 or 8. The latter arrangement is recommended if you have children with you.

We suggest that you bring a notepad, (or even a camera or video) to record what you have seen; when you visit a number of properties in the same day it can be difficult to remember the pros and cons of each by the time evening comes! These notes will also be useful when you return to the UK and relay the options to others who may be involved in the purchase.

It is important that you please recognise that we are running a business and that owners of properties are expecting us at a certain time. We have had instances when clients are late for the initial appointment and this causes real difficulties. So please be prompt!

Quite often we find that “requirements” change as you start to look at properties and for example “a sea view” becomes less important when you realise that perhaps you lose the sun in mid-afternoon whilst a south facing villa with mountain views is a preferred option. Perhaps a large kitchen becomes less important when you realise that you probably spend less time in a Spanish kitchen. Possibly a large garden is less attractive when you appreciate the cost of large irrigation systems and gardening in over 30 degrees. The ability to easily access and see the pool area may be important if you have young children

Location and situation are obviously vital as is the outlook. The quality of the construction, the state of the electrics and central heating are important as is being aware of how the sun travels during the day.

You will need to make some compromises. Every property will have its plus and minus points. Please do understand that searching for “the perfect home” may drive you to despair.

As we start to view properties we find that we start to get to know you and really understand what you are looking for. We have also found that sometimes partners may not agree and so a different sort of compromise arises!

We also hope that as we show properties you will recognise that we are on your side and perhaps we may need to arrange additional properties which we feel meet your criteria more fully.

## **Deciding on a Property**

You may have looked at up to 15 or 20 properties and have narrowed it down. You have looked again at the short-listed properties and have decided to go for a property.

The first step is to put in an offer and agree a price with the owner, which either we or the agent will handle.

You will need to have the full deposit, normally 10%, available to be in Spain within about 10 days and please bear this in mind when making an offer. You should allow one working week for funds to be transferred from a UK High Street Bank to one of the main Spanish Banks.

## **“Holding” Deposit**

Often you will need to provide a “holding” deposit covered by a simple contract agreed with your lawyer. This is normally something in the region of €2,000 – €3,000. This will reserve the property for you and ensure that the agent takes the property off the market while a full contract is prepared.

## **Contract**

Once you have found the property you want to buy, the first step is for the seller and purchaser to sign a Private Purchase Contract (Compraventa). This will be as drawn up by your lawyer.

You must give some thought to the date you wish to complete the transaction – the Contract stipulates the title should be conveyed on or before a certain date, so this can be brought forward by mutual agreement. Normally the completion is within 3 months but this may be less or greater if it suits both parties.

In practice you may well have left Spain and in this case the contract will be sent to you by your lawyer by Email. If you use our Lawyer, the contract will be presented to you in Spanish and English. You will need to check, sign and fax this back to your lawyer, sending the original back by post. Both seller and buyer have to sign the contract and this will be controlled by your lawyer.

This secures the property for you, and it is at the time that both parties sign that you will be expected to provide a deposit (usually 10%). This payment can be transferred to your lawyer’s bank in advance and only released when the lawyer has both signed copies.

## **NIE - Numero de Identificación de Extranjero (Foreign Identification Number)**

This is probably the first piece of paperwork you will need if you spend any time in Spain. An NIE number is a form of identification which is issued to any non-Spanish national upon request. Your number is personal to you. It is not transferable and neither does it expire. **You should organise the application for your NIE as soon as possible.**

An NIE is required for both partners in the property purchase.

The reasons for needing an NIE are varied: for example, anyone purchasing a property will need a NIE in order to set up contracts for the various utilities, and it is also necessary in order to complete car purchases and paying taxes.

If you are considering purchasing a property or a Spanish registered vehicle, it is advisable to obtain a NIE as soon as possible.

Our lawyer will provide you with the necessary application form in triplicate. You will need a photocopy of your passport, and two photographs. The law has recently changed so that you have to make a visit to Denia Police Station with these documents and your passport. We can take you to the Police Station if you need help.

Your application will be reviewed and you will be given one copy stamped. You will need to pass this to your lawyer and when the NIE is issued, the lawyer can collect it on your behalf.

It is preferable that you make this application when you are here, even if you decide not to purchase during this visit. It costs nothing but is essential if you are serious about buying in this area. Please ensure that you set time aside for this – it will save you time and effort later.

## **Banking and Mortgage**

If you purchase property here you will need a local bank account for paying services and also for when you actually pay for the property on completion.

We can introduce you to a suitable bank with a manager who speaks English. This bank has internet facilities. All you will need is your passport(s) and an account (single or joint) can be opened in 15 minutes, No funds need to be deposited immediately.

Should you wish to purchase your property with the aid of a Spanish mortgage the bank will wish to carry out a valuation of the premises and see some proof of income. You can usually borrow up to 70% of the purchase price.

Our recommended bank can handle mortgages. However obtain an estimate of costs (set up costs tend to be more expensive than the UK) and terms of the loan including interest rates. Again we suggest you discuss all this whilst you are in Spain

The bank will work with you and your Lawyer through to completion

## Surveys

Private property valuations are much less usual here than in the UK, but are recommended if the property is very old or you see what could be foundation cracks running through the premises. Cosmetic cracks and fissures are common in Spanish properties and usually indicate natural movement.

We can put you in touch with a British surveyor

## Property Searches

Your Lawyer will handle the equivalent of 'Land Registry' and 'Local' searches although the laws relating to land are not the same as in the UK e.g. you get the equivalent of freehold (rather than leasehold) title to an apartment. The Lawyer will ensure that you have a good, clear and unencumbered title. If necessary, prior charges (e.g. mortgages held by the seller's Bank) will be removed at the completion meeting with all Banks present in front of the Notary.

The seller will need to give your lawyer, through the agent, a copy of the existing Escritura (ownership document) and a copy of the last IBI (Rates) receipt.

Should the current owner have a mortgage on the property, this must be discharged by the relevant bank on or before signing the new Escritura.

A search will be carried out by your lawyer to ensure there are no outstanding tax debts on the property in respect of Rates (IBI) and/or Rubbish Removal (Exacciones Municipales).

## "Declared" Value

In the past it has been an accepted practice in Spain that the "Declared Value" that appears on the Escritura is less than the actual purchase price of the property. Recently the authorities have been tightening up on this and we and our lawyer now insist that you now declare the full purchase price.

If furniture is to be sold by the seller a private agreement between the buyer and the seller can be made but this is outside the legal process.

## Funds to Purchase

If purchase funds are being transferred from the UK, or a Banker's Draft is needed from your Spanish bank. Make sure that any transfers from your UK bank is ordered in good time.

Your lawyer will send you an email on the total funds you require.

Rather than use your UK bank to transfer money to Spain you can consider using a currency broker. A number of these can be found in the Directory section of our web site.

## Visit to the Notary for Completion

To complete the purchase you will need to visit the Notary with your lawyer. An appointment is requested by your lawyer on a specific date and time suitable for both seller and buyer (and the bank if there is a mortgage). Present at the Notary will be the buyers and their lawyer, the sellers, the agent, possibly the seller's lawyer, the bank manager if there is a mortgage to repay or to grant, and of course the Notary. We will also normally attend with you. The whole procedure can last for two hours.

For buyers who do not speak a good level of Spanish it is preferable to have a Lawyer/Representative who speaks English at the completion meeting. The Notary will conduct the whole transaction in Spanish but will point out the key points in English and will ask you questions and seek your confirmation that you understand various elements of your commitments in the transaction.

Your new Escritura will be drafted in advance of your visit. The existing Escritura is checked by your lawyer and a copy sent to the Notary Office by your lawyer who will provide the required information on the new owner.

The Escritura will be read out to both parties and when all are happy then the sellers and the purchasers sign and the drafts and cash are handed over and the keys to the property passed to the purchasers. You will receive a copy of this document.

Your lawyer will then arrange for the Notary bill to be drawn up for the Transmission Tax etc (see below) and this is best settled immediately

If you are unable or decide not to be present for completion of the purchase at the Notary office you will need to arrange a Power of Attorney. The lawyer can do this for you and can continue with the purchase while you are in the U.K. Otherwise you will need to attend on the day of completion. If you do not attend you will need to visit the Notary the next time you visit Spain as the actual ownership of the property cannot be finalised until you have actually signed in front of the Notary.

## **Costs & Fees.**

It is important to recognise that there are a number of costs involved in purchasing a property. The actual amounts can be estimated by your lawyer but if you allow 9% of the declared value this will give you an estimated cost and you should get some “change” from this estimate.

### *Transmission Tax – 7%*

On re-sale property and most new developments there is a Government Transmission Tax of 7% of the value payable by the purchaser. This is normally paid on the day of completion at the Notary’s office.

### *Notary and Land Registry*

Also payable when you complete are the Notary charges and other costs concerning the purchase of the property including Land Registry charges. The notary fees and property registry fees for a conveyance transaction are set on a scale fixed by the Government, and usually amount to approximately 1% of the **declared value**

### *Lawyers Fees*

The lawyers fees will be estimated by your lawyer but assume approximately €2,200 including IVA.

Copies of all these bills should be kept safely as they may be able to be offset from taxes at a later date should you subsequently sell the property.

## **Escritura**

Once you have signed the escritura for your new property, the notary holds what may be regarded as the true original at the notary office.

However, a further “original” is forwarded to the Registry Office for registration and stamping, which takes a few weeks. Whilst the stamped escritura is an important document, and should be kept in a safe place once received, it is not as vital to produce as UK title deeds, as each subsequent purchaser receives a new escritura on buying a property.

If the premises are purchased with a mortgage, the bank issuing the mortgage will hold the stamped and registered escritura.

You should receive a Copia Simple (simple copy, as the name suggests) at the time of signing the Escritura which is for you to keep. It is not actually necessary to produce the registered escritura when you sell the property, but you must provide a Copia Simple for the searches to be carried out by the prospective purchaser or their agent.

## Services

It is the seller's responsibility to provide receipts for the utilities and taxes. This allows your lawyer to change the details into your name. All services are normally paid by standing order by your bank and the lawyer will pass this information on to Telefonica, Iberdrola (electricity), Amjasa (water) and also handle any gas or oil contracts.

If the property is part of a Community or Urbanisation, a Certificate must also be obtained from the Administrators to show the Community fees have been paid and are up to date prior to completion. These standing orders also need to be arranged by your lawyer.

There is normally a nominal charge of €100 for the above arrangements. This we recommend as it is much simpler than trying to do this yourselves.

## Plus Valia Tax

The seller has a land value tax (Plus Valia) to pay, which is calculated by the relevant Ayuntamiento (Town Hall) upon production of the Escritura.

Broadly speaking, it is a tax covering the increase in land value since the property purchase

The seller has three months to pay a Plus Valia. Please note that if this tax is not discharged, the Town Hall will look to the subsequent owner to honour the debt. It can take two years for a non-payment of Plus Valia to come to light, so if you are buying a property, do try to ensure the sellers have administered this payment. Our lawyer insists that this amount is held back at completion from the purchase price and she pays the bill directly.

## Property Taxes

It is also important to provide your local Ayuntamiento (Town Hall) with your details and the NIE and Copia Simple copy documents, in order that municipal taxes can be administered.

Every region is subject to an annual rubbish removal tax (Basura, or Exacciones Municipales) and an annual Rates tax (IBI, or Impuestos Bienes Inmuebles).

Again your lawyer will assist by handling the change of ownership details and setting up a standing order with your bank.

## Wealth and Other Taxes

The other tax liability you will encounter, if you are a non-resident, is the Patrimonio (Wealth) and Renta (Own Use Income Tax) taxes.

These are payable together once a year in arrears, and relate to your ownership of a property or properties when you do not hold a current Residencia card.

In addition, these taxes are nothing to do with renting your property: if this is the case, you are supposed to declare an additional 25% of your **gross** rental income.

Your lawyer can be appointed as your fiscal representative and will handle your tax affairs for you annually. This we would recommend.

## Key Points

There are a few key points that we would like to make

1. Although obviously the main reason for the visit is to look at the area and view properties and hopefully agree to buy a property you should allow some time to arrange to:
  - a. Open a bank account (and discuss a mortgage if required)
  - b. Apply for your NIE
  - c. Agree to appoint a lawyer
  
2. In appointing a lawyer you can pass the following to them to handle on your behalf
  - a. Assistance in applying for an NIE
  - b. Preparing the contracts and handling any “holding” deposit and the 10% initial deposit
  - c. Carrying out searches on the property
  - d. Preparing a Power of Attorney if required
  - e. Advising you on the funds that you have to have available for completion
  - f. Arranging the Notary appointment and attending with you
  - g. Advising you on all fees, costs and taxes
  - h. Corresponding with service companies and the Town Hall regarding the change of ownership so that all future bills can be assumed
  - i. Handling annual fiscal matters
  
3. Be aware of the costs of purchasing and the funds that you need available:
  - a. Have immediate availability of €3,000 in case a “holding” deposit is required. This is not always the case but some sellers require it.
  - b. Ensure that you have some funds available within 10 days of your agreeing to purchase a property. This means you must have available the initial deposit of 10% (less any “holding deposit)
  - c. Remember to add 9% of the declared value to the actual agreed price of the property to cover the Government tax, Notary, Lawyer and other fees and costs