

BUYING A PROPERTY IN SPAIN? 10 REASONS TO HIRE A LAWYER

On the subject of buying property (safely) in Spain, we still receive enquiries on whether it is important, or necessary, to appoint a qualified legal representative to look after the interests of the buyer. And we say that we 'still' receive enquiries because fortunately most investors have realised how essential it is to be protected when parting with substantial sums of money.

Buying a property in Spain has become a risky business. Nevertheless, foreign buyers **don't want to give up having a home in the sun**, and want to buy soon before the prices rise too much. Developers are aware of the existing demand and try to build as much as possible before any possible drop in the demand may occur, which drives them to build quick **without complying with the existing laws and regulations**. Knowing that foreign buyers are less informed, unscrupulous developers and estate agents don't think twice before selling an off plan property that may eventually be demolished. Although the scenario depicted rarely happens, it is perfectly possible to take place if regulations are not complied with. Luckily, in the past years legal security has tightened on property transactions, but **lets not forget that things can go wrong if one is not properly advised**.

There are many reasons to hire a lawyer when buying property in Spain. We have thought of the ten following:

1 Avoid Horror Stories

These stories can be originated in one of the **following scenarios**:

- Buyer buys property with **charges**, encumbrances and other debts.
- Buyer buys a property that has **never been registered**.
- Buyer buys a property with perfect clean title, registered, taxes paid up to date. The property is however **not the one that has been seen**. They had relied on a description and some land registry details which simply corresponded to another property. They have no right of recourse.
- Buyer hands over a deposit to someone **purporting to be owner** who subsequently disappears.
- Buyer buys a property with **tenants** living legally, but unbeknown to him, there are legal tenants occupying the property. The latter either decide to stay until expiration of the term of the contract, exercise their priority purchasing rights or even demand a sum of money as compensation.
- A buyer who had paid a sum of the money towards a new property is **unable to complete** because the developer has run out of money and declares bankruptcy.

2 Get an Independent and Impartial Service

Not only is the lawyer obliged to observe **strict professional standards**, but he will get paid regardless of where and from whom the buyer buys. Conversely, the seller of the property will only receive his money if the buyer purchases his property and will therefore be unconcerned about what happens next. Almost identical situation happens with many real estate agents: they don't get paid unless a given property is sold and are therefore bound to **let their impartiality slip** to get a given property sold.

3 Get Protected with the Lawyer's Legal Insurance

Registered lawyers are covered against negligence by **professional indemnity insurance**, which means that if something goes wrong during the transaction and as a consequence your interests are injured, the professional indemnity insurance must **cover any liability** arising from this negligence.

4 Avoid the Language Barrier

As most conveyancing lawyers are fluent in English the chances of confusions and misunderstandings occasioned when attempting to understand or translate the promises of a seller are reduced, and with it, the **transaction increases in safety**. A lawyer will also provide you, unknowingly, a **free translation service** when dealing with the Notary Public, banks and many more instances.

5 Get Better Conditions in your Mortgage

Even where the buyer finds a suitable mortgage loan to finance the purchase of a property, the lawyer will be able to give a second opinion. **Non-resident applicants are typically burdened** with the highest rates as they appear as awkward clients. The reason for this is that paying for a holiday home (which in most cases becomes a retirement home) abroad comes as a 'secondary' priority when the owner is faced with financial difficulties: the likelihood of defaulting payment of the loan is higher. Lending entities are naturally conservative and in order to mitigate this risk they increase interest rates, increase arrangement fees, reduce loan periods and lend less on the loan to value ratio. A loan for a non-resident borrower is as a consequence more expensive, where these are given, as many lending entities do not even contemplate these applicants.

6 Avoid Bank Charges

All conveyancing lawyers hold a clients account with a Spanish bank with **preferential conditions**. When transferring monies from abroad you can bypass the **extortionate conditions imposed on non-resident** accounts, anything up to 0.5% of the sum transferred) bank accounts and save good money. If you transfer 100,000 euros to Spain, you can save 500 Euros by using your lawyer's client account.

7 Get a Free Escrow Service

Did you know that in some countries certain professionals and companies provide an escrow service for a fee? (e.g. <http://www.escrow.com> in the UK). Most, if not all, **Spanish lawyers consider this as part of the conveyancing service and do not charge separately** for it. An escrow account allows parties to a transaction to deposit funds in an impartial party held account. By using your lawyers free escrow service, you can save 800 Euros when putting in escrow an amount of 100,000 Euros, which is what escrow.com charges for that amount (0.8% of the amount).

8 Get More Advice and Services

Lawyers will not only provide you advice on the transaction itself but will assist you in the processing of NIE numbers, opening bank accounts, changing utility contracts and arranging payment standing orders, setting up companies, drawing up wills, rental options, etc.

9 You do Not Need to be Present

All the above can be done by the appointed lawyer, in your absence. All which will be required is a visit to the Notary Public, in Spain or even in your home country to sign **power of attorney** (in which case it will be posted) and follow instructions from the lawyer.

10 Get a Valuable Post Sale Service

The lawyer will look after the filing of tax forms, collection and registration of the deeds, but also will assist you helping you with dealing with after-sales situations which require a lawyers letter or phone call, such as arranging the "**snagging**", talking to the community of owners association, developer/seller, banks etc.

In summary, and considering the amount of money invested on a property, but in a foreign country with a different language and legal system, hiring a lawyer seems a reasonable step to take, and as we outline above, it can even save you enough money as to pay for itself!