

Spanish Homebuyers Guide

Buying a home in Spain does not have to be a daunting process. It is really a matter of understanding the steps and being well informed of the legal and technical jargon. Whether it is a new build or a resale the basic procedure is the same, just with different timescales.

Below is a brief outline of the purchase procedure, followed by other useful information and an explanation of services necessary or available.

The Contract

Once you have found the property, the Estate Agent will often ask for a small reservation fee, usually 3000 Euros, to take it off the market whilst a private sale/purchase contract is drawn up. This forms part of the balance of the deposit due.

This private contract, between buyer and seller, should contain details of the agreed purchase price, the deposit payment, provision for payment of the outstanding balance, any extras, e.g. furniture, the intended completion date and all other relevant terms and conditions.

A specific clause (called an arras) may be included with a financial penalty should either party default on the terms of the contract. In the case of the seller they would return the deposit and forfeit an equivalent sum, i.e. give the buyer double the deposit. If the buyer pulls out they lose the deposit paid.

It is important that your Spanish lawyer checks the contract before it is signed to ensure it protects your interests. To be legally accepted in Spain the contract must be written in Spanish. Sometimes it is produced in dual language but you can always ask your lawyer for it to be translated. Always check if there will be an additional charge for this service as it may be more cost effective to have it translated privately.

Once the contract is signed by both parties and you have paid the deposit there is then a binding agreement between buyer and seller.

Land Registry

All property sales or purchases should be registered in the Land Registry Office in Spain. They keep details of the property and record financial charges and other matters which may affect the Title Deed. It is important to make sure the vendor is the legal owner of the property and any relevant taxes or outstanding mortgage are paid before signing the new Title Deed on the day of completion.

This information is detailed in a document called a **Nota Simple**, which is ordered from the relevant Land Registry Office.

In the case of a new build, the builder must have a building license and planning permission for the construction. Given the length of time the planning process takes, sometimes the permissions will still be in the application stage at the time the private contract is signed. Your lawyer should check this and may suggest an additional clause to protect any

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monies that you may have paid in the event that the licence and permissions are not granted.

Title Deed

To complete the purchase, both buyer, seller and their legal representatives are required to be present at the same time to sign the Title Deed (Escritura) in front of a Spanish Notary (Notario Publico). This person, who is a legally trained expert, will check the documentation and identification of all parties before it is signed.

It is at this time you will be required to pay the balance of the purchase money and all additional taxes so if there is a Spanish mortgage involved in the purchase then this will also be signed for in the Notary at the same time as the Title Deed with the bank manager present. You will then be given the keys to your new home.

You are recommended to visit the property before going to Notary to check that everything is in order.

Once the formalities have been completed at the Notary, your lawyer will pay the necessary fees and taxes and present the Title Deed to the Land Registry Office for registration. This process can run into several months before the official stamped Title Deed (Escritura) is available to you. For this reason you should make sure that you are given a **Copie Simple** of the Title Deed at the time of signing as this is required to put all the utility bills etc into your name.

Power of Attorney

If you will be unable to attend the completion it is possible to give power of attorney to your Spanish lawyer or another trusted person to act on your behalf. The document, drafted by your lawyer in Spanish, must be signed by you in front of a Notary. You should always check what the power of attorney allows your representative to do.

Fees and costs

You can expect to pay the equivalent of approximately 10% of the purchase price on taxes and fees. This money must be available on the day of completion

NIE Certificate - Tax Identification Number

Any person purchasing a property in Spain is required to obtain a tax identification number. You will need a certified copy of your passport, obtained from the Notary, to accompany the application form. This service costs approximately 50 Euros per person in Spain but much more costly if done in the UK so it is worth considering making the application very early in the process, whilst still in Spain. Your Estate Agent or lawyer will advise you more about this requirement.

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Spanish Bank Account

This will be needed to arrange direct debits to pay the utility bills, etc. You will initially open an account as a non-resident and sign a declaration that your tax liabilities are in your home country, i.e. United Kingdom. Even if you are not intending to return you will be required to provide a UK address but can elect a Spanish address for bank statements and correspondence.

Mortgages

Spanish Banks will allow you to borrow against Spanish property and a mortgage can usually be arranged. This is most often to a maximum value of 70% of the purchase price but can be more depending on the type of purchase and your financial status. These funds are made available on the day of completion. As with the property purchase a mortgage is subject to taxes and fees of approximately 2% so always ask the bank to provide you with a quote.

Bank Valuation

A valuation will be carried out by a specialist firm associated with the bank if a Spanish mortgage has been applied for. In other cases, it is very unusual to have a property valued. The Spanish law regulates the responsibility of the vendor for structural defects in the property, protecting to some extent you as the purchaser.

Spanish Will

When you purchase a property, in Spain, it is recommended that you make a Spanish will that is independent of the will made in your home country, which can help avoid a great deal of trouble and expense. The will made in your home country should be carefully worded in order to respect the terms of your Spanish will. It is necessary to sign your will in front of a Notary and this can be done simultaneously to signing the Title Deed on the day of completion if prior arrangement is made with your Spanish lawyer.

Fiscal Representative

Non-resident Spanish property owners are liable for annual wealth and income tax. Those resident in Spain are liable for income tax. In either case a Fiscal Representative will represent you in front of the Spanish Tax Authorities and do your tax returns.

Bank Guarantee

When purchasing a new build, the builder should offer a bank guarantee for all the stage payments made during the purchase. The guarantee is issued by the bank after each payment is made. However, due to the costs of those guarantees, some builders tend not to offer such guarantees and this

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can put you at risk if the property is not completed, e.g. due to financial difficulties faced by the builder.

Declared Value

It is common practice for the sale and purchase price to be understated by the vendor, enabling them to reduce their tax liability and reducing your stamp duty fees. However, if you decide to sell in the future, you could be liable for Capital Gains tax on additional profit if the declared value is much higher.

Plusvalía

This is a local tax, which varies from property to property and from Town hall to Town Hall. This tax should be paid by the vendor unless stated otherwise in the purchase contract.

Below is a list of useful words that might be used during your purchase:

Abogado	Lawyer, Solicitor, Attorney
Administrador	Administrator, especially of the affairs of a community of Property Owners
Acta	Minutes of Meeting
Al Contado	Cash
Albacea	Executor of Will
Alquiler	Rent
Asegurar	To insure
Asesor Fiscal	Financial Adviser, Tax Consultant,
Autorización de residencia	Residence Permit
Ayuntamiento	Town Hall
Certificado de empadronamiento	Certificate showing a person resides or owns property in a given municipality
Cobrar	To cash a cheque, to collect a payment
Comprador	Purchaser/Buyer
Comunidad de Propietarios	Owners association in an apartment block or complex of houses
Contrato de compraventa	Contract of Sale and Purchase
Cuenta corriente	Cheque account in bank
Declaración de impuesto	Tax Return
Declaración de obra nueva	Declaration of new Construction
Declaración de renta	Income Tax Return
Demanda	Lawsuit
Domiciliación de pagos	Standing Order to Bank for payment of electric, water, tax bills, etc
Escritura pública	Notarised and Registered Title Deed
Gastos	Expenses
Hacienda	Treasury, Tax Ministry
Hipoteca	Mortgage
Honorarios	Fees

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Impuesto

NIE

Parcela

Patrimonio

Plan Parcial

Plus Valía

Poder

Registro de la Propiedad

Residente

Solicitud

Testamento

Traspaso

Urbanización

Valor Catastral

Tax

Foreigner's Tax Identification Number

Building Plot

Patrimony/Capital Assets

Plan of building plots in a housing development

Tax on increased land value

Proxy, Power of Attorney

Property Registry

Resident

Petition, Request, Application

Will/Testament

Transfer/Lease of Property

Housing Estate

Official Valuation of property for Tax Purposes