



*Manzanares*  
INTERNATIONAL LAWYERS

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YOUR  
LEGAL GUIDE  
TO BUYING A  
PROPERTY IN  
**SPAIN**

**UNITED KINGDOM-IRELAND-SPAIN-BULGARIA-BRAZIL-MOROCCO-ITALY**

### ***Preliminary clarification***

*With this guide, we do not intend to replace the need for the specialised and personalised attention you must demand from one of our qualified professionals you will contact if you wish to buy a property in Spain. Our aim is to provide a general step-by-step idea of the basic questions you must keep in mind in this important and sometimes delicate process; in order to guarantee a safe transaction, with no unexpected surprises.*



# THE PROCESS OF BUYING A PROPERTY IN SPAIN

## 1.1. RESERVATION OF THE PROPERTY

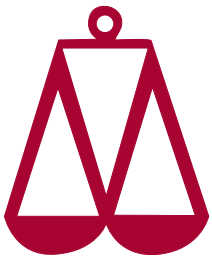
The first step is to formalise your offer on the property and remove it from the market, thus protecting your interest to purchase. Once the terms of the purchase have been discussed and the seller accepts the offer, a binding agreement is born which is sealed by signing a reservation contract and includes a deposit of between 3000€ and 6000€ to reserve the property prior to the exchange of private purchase contract.

This reservation fee is fully refundable in case that the checks carried out by our lawyers unveil any legal obstacles which affect the buying process.

### **The searching process**

Whilst the property is 'reserved' in your name, our local lawyer will carry out all the necessary searches and investigations of the property with the relevant authorities to ensure that the property you are purchasing is legal and free from any charges, debts or encumbrances.

We will also ensure that the property has the necessary Title Deeds and that the vendors are the rightful owners. In the case of a new property, we will ensure that the constructors are reputable and solvent and will obtain guarantees that the property will be constructed and delivered according to the agreed terms and conditions. In the case of the purchase of a plot of land, a survey of the land will be carried out in order to obtain its exact measurements and to identify its perimeters. This study will include details on whether the land can be built on legally, and whether it has the appropriate access points and surface.





## THE PROCESS OF BUYING A PROPERTY IN SPAIN

We will guarantee in writing from our Law Firm that the searching process has been satisfactorily concluded. You will have a very accurate description and explanation about every single aspect of the property

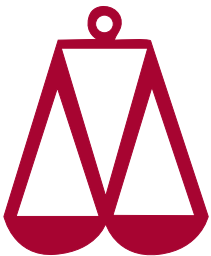
### 1.2. THE PRIVATE CONTRACT

Once the searches are complete, and we are absolutely certain the property is legally declared in the best conditions to purchase; a Private Contract is drafted and signed by both parties. This private contract sets out all the details of the agreement, payment terms and completion date. During this stage the buyer puts down a non-returnable deposit which will be a percentage of the purchase price, less the holding deposit paid at the reservation

### 1.3. COMPLETION (Signing the title deeds)

The property sale process is finalised before a Notary, with the buyer and seller signing the Deed of Sale (Title Deeds). The Notary is a public official whose role it is to identify the buyer and the seller, and ensure that all legal requirements have been met, and that the amount due to be paid has been settled.

If you are unable to be present in the signing of the deeds, we can carry out all necessary procedures in your name by means of Power of Attorney. In fact, it is common practice of our firm to have a valid power of attorney from the beginning of all buying and/or selling operations.





## THE PROCESS OF BUYING A PROPERTY IN SPAIN

### a) Taking possession of the property

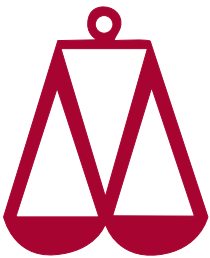
Immediately after the deeds have been signed, the buyer will receive the keys to the property, and can take possession of the property.

### b) Title deeds and property registration

The property registration procedure entails the payment of all the taxes applicable to the property and the obtaining of the final register stamp for the Title Deeds, which guarantees the transfer of the property. This procedure is an important step, and takes place once the Title Deeds have been signed and you have taken possession of your property. The title deeds usually take around two to three months to be returned by the Land Registry office. The Notary will give us notice that the deeds are available for collection.

### c) Utilities

Once the sale has been finalised, we will ensure that all the utility contracts for the property (electricity, water, rubbish collection, etc.) are in the name of the buyer. We will also arrange all bills to be paid by direct debit from your account if you wish.





## **BASIC NECESSARY FORMALITIES**

There are various basic formalities you must take into account when completing your property buying process in Spain:

### **2.1. POWER OF ATTORNEY**

To be your legal representative in Spain it is essential that you sign a Power of Attorney on our behalf. With this Power, we are able to sign contracts, Deeds and all documentation related to your purchase process. We will draft the Power of Attorney to be signed, at your convenience, either in Spain or through our London or Dublin offices. If you live in the U.K. or Ireland, we will be able to make the necessary arrangements for you to obtain the Power at the closest Notary to your home. We will also arrange for the Power to be stamped with the Apostille of The Hague making the Power is valid in Spain.

### **2.2. N.I.E. (Spanish ID Number for Foreigners).**

The N.I.E. is the ID number that foreigners use in Spain, and is issued by police authorities. Without this ID number it is impossible to buy properties in Spain or obtain service contracts for utilities.

Applications to obtain a N.I.E. number tend to take about 2 months to process, so it is very important to present your application for a number at the beginning of the buying process.





## **BASIC NECESSARY FORMALITIES**

### **2.3. SPANISH BANK ACCOUNT**

It is essential to have an account in a Spanish bank in order to contract utility services and to pay them by direct debit. We are able to open a bank account in Spain on your behalf.

### **2.4. SPANISH WILL**

It is important to take into account the Spanish Inheritance Tax, which is the tax to be paid in 'mortis causa' property ownership transfers, and to be aware of how to reduce its effects.

Although it is not obligatory to have a Will in Spain, we strongly urge you to have one. A Spanish Will usually makes procedures easier and quicker in Spain. If you use your British Will, you will not be able to take any action until your British Will has been validated. This may take some time, especially if your British will or your estate presents any kind of complications.

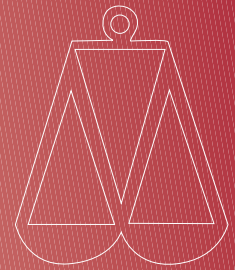
Without a Spanish Will, finalising an inheritance procedure can take up to one and a half or two years. Spanish authorities apply tax penalisations if these matters are not dealt with promptly.

According to Spanish law, when a property is jointly owned by two people and one of them dies, their part is not automatically transferred to the other title holder. It will be transferred in accordance with the Will of the deceased, or, if there is no will, in accordance with laws on intestate succession.





## AXES IN SPAIN



The purchase of a property in Spain involves, both for residents and non-residents, a series of fiscal obligations which must be met:

### **3.1. TAXES ON CONVEYANCE OF ASSETS AND DOCUMENTED LEGAL PROCEDURES (ITP-AJD in its Spanish acronym) AND/OR IVA (VAT):**

The IVA tax (VAT) is applicable to the purchase of newly built properties and urban plots which are immediately available for building. It amounts to 7% of the purchase price for the purchase of newly built properties, and 16% for the purchase of urban plots which are immediately available for building. This tax must be paid on each instalment. In addition, the obtaining of the title deed is also subject to Taxes on Conveyance of Assets and Documented Legal Procedures at 1%.

It is necessary to pay the ITP-AJD taxes (taxes on Conveyance of Assets and Documented Legal Procedures), when IVA (VAT) is not applicable. The rate of ITP is 7% of the property purchase price.

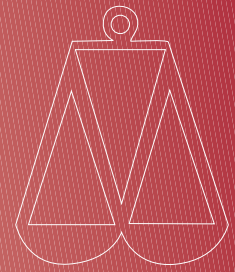
Remember the costs associated to a property sale transaction are normally 10% of the purchase price, and one of the mentioned taxes is included in this 10%.

### **3.2. TAX ON REAL ESTATE (IBI in its Spanish acronym):**

The IBI tax must be paid every year, in one payment to be made between September 15 and November 15 (this is the usual period, however it might change in accordance with each Town Hall). Failure to pay this tax may result in the initiation of sanction procedures. We can ensure this payment is made by direct debit from your Spanish bank account.



## AXES IN SPAIN



### 3.3. WEALTH TAX:

If you are not resident in Spain, you must pay Wealth Tax (*Impuesto sobre el Patrimonio*), which is applicable to all the assets you have in Spain. Among these assets are real estate, bank accounts and other goods of a certain value. The rate of this tax is very low, usually around 0.20% of the total value of your assets.

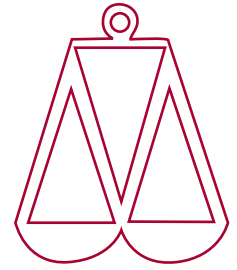
### 3.4. PROPERTY INCOME TAX:

Non-residents who own properties in Spain must file their tax return with the tax authorities. Non-residents only have to declare the amount earned through their activities in Spain, rather than their global income. This includes their real estate assets, which are levied at 24%, and also the interests generated by deposits in accounts held in Spanish banks.

We advise that any person who owns a property in Spain, but is not resident there the entire year, should designate a 'fiscal representative' who will carry out all the procedures necessary before the tax authorities. We also offer this service.

### 3.5. CAPITAL GAINS TAX:

Capital gains tax is payable based upon the increase between the original purchase price of a property and the selling price. This tax applies to the seller, and is levied at 18% in the case of non-residents. Anyone purchasing a property from a non-resident must withhold 3% of the purchase price which is then paid to the tax authorities on account of any liability by the vendors.



The vendor then has a 3-month period to pay the tax authorities the rest of this tax. Nevertheless it must be taken into account that there are situations where the tax due would be less, we can assist you in the matter.

In Spain it is possible for foreigners and non-residents to obtain a mortgage. We have a department within our firm dedicated to mortgages which can assist you in finding the mortgage option most suited to your needs.

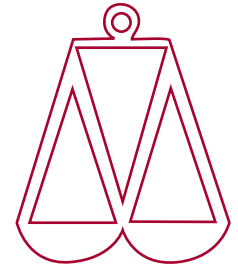
#### **4.1. REQUIREMENTS**

In order to obtain a mortgage in Spain you must meet a series of requirements related to your ability to meet payments and also the value of the property being purchased.

The quota will never exceed 30% or 35% of the net monthly income of the applicant and the maximum re-payment period is 30 years. In Spain, mortgages are given up to the age of 70.

#### **4.2. AMOUNT REQUESTED**

As part of your mortgage application process, the bank will commission an official, certified and independent valuation company to carry out a valuation of the property. This company will provide an official report on the value of the property, which becomes the guarantee for the recovery of the loan in case of non-payment.



With regard to the mortgage amount, the official loans offered by banks are, as a general rule, up to 70% of the valuation value of the property for non-resident clients and up to 90% for residents.

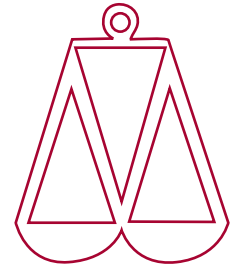
As with any mortgage, the property acts as a guarantee; if the client cannot meet payments, the mortgage lender can repossess and sell the property to recover its money. Therefore monthly payments must be kept up by the client.

#### **4.3. TYPES OF MORTGAGES**

The most common type of mortgage in Spain is the capital and interest or repayment mortgage. However, in a competitive market, mortgages with an initial exclusion period are becoming increasingly popular.

In capital and interest mortgages, the loan is returned by paying part of the capital monthly, together with the interests generated. This way, the loan is returned completely once the repayment period has ended.

On the other hand, mortgages with an initial exclusion period consist in initially paying only the interests, and returning the capital at the end of the repayment period. During the initial period, clients only pay the interests on the loan, and none of the capital.



#### **4.4. NECESSARY DOCUMENTS**

You will need certain documents in order to apply for a loan, which vary depending on whether the applicant is employed, self-employed or retired:

##### **Employed:**

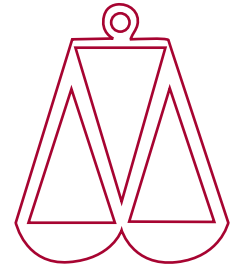
- Last three pay slips.
- Tax return from last two tax years.
- Company certificate confirming salary and length of time at company.
- Bank statements for last three months.
- Reference letter from bank.

##### **Self-employed:**

- Tax returns for last two tax years.
- Report by accountant.
- Bank statements for last three months.
- Reference letter from bank.

##### **Retired:**

- Last three pension slips.
- Tax return from last two tax years.
- Bank statements for the last three months.
- Reference letter from bank.



#### **4.5. MORTGAGE COSTS**

In addition to valuation costs, there are other necessary costs related to setting up a mortgage in Spain, including the opening commission (normally between 1 and 1.25% of the loan amount), Notary's fees, Property Register, legal fees and the tax on Documented Legal Procedures.

If you are interested in obtaining a mortgage, we can draft a detailed list of all associated costs related to setting up the mortgage, once we know the amount you are allowed to borrow.

Another legal requirement in setting up a mortgage is purchasing an insurance policy on the property and its contents. Our firm can assist you in this as well.

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