

Quick legal guide to buying property in Spain

Once you have decided on the property that you want to buy, the process is this.

Nota simple informativa

With this document from the Property Registry (Registro de la Propiedad), you'll find out if the property is free of debt, if it really belongs to the seller, and if the description of the property matches what the buyer has been told (to avoid surprises about missing square meters).

The pre-agreement

Between the seller and the buyer there has to be a contract in place until the public deed of purchase is ready. It's usually a simple document in which the seller expresses their intent to transfer the property to the buyer, and the buyer expresses their intent to buy at the price and conditions agreed upon. At this time, the buyer also gives to the seller a percentage of the agreed-upon price. The typical agreement in Spain (called arras) is if the buyer backs out of the contract, they lose the deposit; if the seller backs out, they have to pay double. Of course, the buyer and seller may choose another type of agreement if they prefer.

The mortgage

The documents typically required by a bank are:

- Your DNI/NIE
- Your work contract
- Your last 3 paycheck stubs
- Your latest income tax return
- Your pre-agreement with the seller
- Proof that the property tax (IBI) on the house is paid up.
- Other mortgages or loans that you may have
- All property titles, both in Spain and overseas
- Certificate from work authorities (vida laboral), showing your past work history
- Records of your assets (bank/mutual fund statements, etc.)
- Prenuptial agreements, if any
- Nonresidents: A certificate of nonresidency (form available from the bank)
- If self-employed: Local tax on economic activities (IAE)

- If self-employed: VAT tax you paid for the last trimester and last year

If you get a mortgage, you will become acquainted with an appraiser (tasador). The bank requires an appraiser to ensure that their loan to you is safe. You will need to pay for the appraiser's work, usually between 300-500 euros. Note that the tasador by law is a licensed architect, so even if you don't need a mortgage, but have doubts about the structural integrity of the house, you might want to hire an appraiser.

Certifying the transfer of property

The property transfer must be certified by a notary. The deed of purchase will be given to the buyer after the notary reads it and the parties present agree to the contents of the deed. The following must then be presented: proof of identity (or power of attorney) of both parties, the seller's title of property (a form that reports the investment to the Central Register), and the buyer's payment. The buyer and seller sign the contract; beneath their signature, the notary signs using his firma protocolizada and the deed is ready for taxes.

Taxes

For the buyer: transfer tax (impuesto de transmisiones patrimoniales) and stamp tax (impuesto de actos jurídicos documentados)

If the seller is an individual, the buyer pays a tax of 6% (7% in some regions) of the price specified in the deed. If the seller is a real estate developer and the building or land to be built on represents a first-time transfer, then the buyer pays VAT tax instead, meaning 7% for housing, 16% otherwise. If for housing, you have to add a stamp tax, in this case reduced to 0.5%, depending on the region (for Madrid it's 1.5%). Some special conditions apply for the Canary Islands.

For the seller: a local tax called the plusvalia

With a copy of the deed in hand, the seller must go to the City Hall (or wherever local taxes are paid). After filling out the form, the seller will receive in the mail a notice of how much they have to pay. This amount is calculated based on the number of years the property was held, and on the property's valor catastral. Be aware that each town has a different procedure regarding payment of this plusvalia. It's best to ask at the notary's office about this payment.

Property Registry

If you want to be sure that your rights to the property are fully protected, you must register your title at the local office. (Some small towns don't have an office; some big cities have many -- check the original deed of the seller to find out which office corresponds to you). You will be charged a standard fee (about .4% of the first 6010 euros, going down to .02% for over 6,010,121 euros).

Visit www.premiervillaspain.com to find out more information