



Buy a property in Portugal

Legal regulations and basic steps.

Basic steps:

Attention buyers: make sure you are aware of all the issues involved in acquisition. A few euros well spent with professional advisers will save you thousands in the future.

Here are the basic steps to help understand the procedures and legal acts that are involved in acquiring a property in Portugal, still It is always recommended that qualified legal advice be sought in any purchase.

1- Use a Government Licensed Estate Agent.

This license is granted by the State according to a number of required qualifications on the part of the Estate Agent. It mainly serves as a guarantee that any individual Estate Agent must use certain forms of approved documentation to implement his functions in his profession.

2- Promissory Contract.

It is quite normal for both Parties to initially enter into a Promissory Contract detailing the conditions of Sale - "Contrato de Promessa de Compra e Venda". This Contract is then legalized by registering it in the Notary Office. This Contract is legally binding on both sides and the law requires the seller to repay twice the deposit should he withdraw from the sale. Likewise, if the buyer fails to complete he forfeits the total of his deposit. There are specific laws relating to this act that a Lawyer will be able to explain.

3- Third party.

It is often found practical for the buyer to appoint a third party such as their Lawyer to act for them legally in the matter. A document named "Procuração Publica" is prepared with the necessary details and then in the Notary Office this document is signed and registered by the Notary. This official document can also be created in the Portuguese language outside Portugal in a Portuguese Consul in a foreign country, or, in a Notary in the language of the country concerned. In the case of the latter the document must have the Seal of the Notary and an Apostil attached. An official translation into the Portuguese language will later be necessary.

4- Fiscal Number.

Every buyer is required to obtain a Fiscal Number from the local Tax Office (Finanças).

5- Municipal payment.

Prior to act of purchase, the purchase will be subject to a Municipal payment named "IMT - Imposto Municipal sobre Transmissões" which as from the 1st of January 2003 replaces the previous tax payment named "SISA". This payment is paid in the local Tax Office nearest to the property. The amount to be paid is related in terms of percentage by "platforms" to the cost of the property being purchased. In limited cases the buyer will be exempt from paying this Tax.

6- Sale.

When all the above requirements have been completed the act of sale can proceed in any Notary Office. This act is known as the "Escritura de Compra e Venda" which takes place in front of the selected Notary and is recorded in his official books. The Notary will check prior to the act of sale that all the necessary documents are correct to ensure that the sale can proceed according to the facts provided. It is at this moment that payment is normally completed to the seller, and when applicable,



the balance of purchase has to be made according to the signed Contract in Point 2 above. After the act is recorded the Notary Office will issue a photocopy of the entry which is the proof to the buyer that the act has officially taken place. The photocopy will carry the seal of the Notary but as further official copies can be requested at any time this document should not be mistaken for a "Title Deed"- as known in the UK.

7- Land Registry.

On completion of the above Notarial act the property in question has then to be registered in the new owners name in the Land Registry (Conservatoria do Registo Predial). This registration is not obligatory until the owner wishes to sell the property However, it is strongly recommend that this registration is made immediately after the Notary act as a preventative measure against a possible financial abuse by the previous owner.

8- Tax.

Every year the owner of any property is subject to pay an annual Tax named "IMI" (formerly know as "Contribução Autarquica"), which can be related to the UK word "Rates". This charge is levied each April relating to the previous year and if the amount exceeds €250.00 then it will be divided into two equal bills, the first for payment in April, and the second, for payment in September. It is most important to pay this charge as the failure for doing so eventually results in the property being placed for sale on the market by the State and goes to the highest bidder.

Legal regulations

The legal regulations are very specific when buying a property in Portugal but it is always advisable to use a qualified legal advice in any property transaction.

It is also important to insure that any plans in the Town Hall referring specifically to the property do physically agree with the existing construction. A property for living purposes must also have the following documentation.

- a. A Habitation License for property constructed after 1951
- b. A Certified insertion in the records of the Land Conservatory
- c. A detailed "Caderneta Urbana" from the Tax Office

Commercial and Industrial properties require both Points b. and c.

In the case of a rural property the following extra document is necessary which is a detailed and an up-to-date description of the property as is named "Caderneta Rustica". This document is issued by the local Tax Office.

Each Town Hall and Tax Office tend to have their own local interpretation of the laws and regulations and these should be first carefully checked prior to an intended purchase. It is always advisable to make legal and other specific searches prior to acquiring a rural or urban property.

The normal practice is for the seller of a property to pay a commission to an Estate Agent but as this is not a controlled percentage and it can vary from area to area.