

Buying Property In Spain



Introduction

Buying your dream home in this beautiful and unspoilt region should be a pleasant and enjoyable experience. We have compiled this 'Buyers Guide' to give you an insight into how the system works including an overview of the more commonly used terminology that you will undoubtedly come across.

This is not intended to answer all the questions that will arise during the purchase of your property as this would be an almost impossible task. But it will help you to understand a little more of how the process works and give you a reliable framework to reference your progress.

We have built our knowledge through many years involvement in the Spanish system and through working alongside legal and building specialists. We are always happy to answer any queries you may have and please feel free to call or email.

Lesley McEwan
Contact Us Here



Our 10 step guide to buying in Spain

1) Consider carefully what type of property you want to buy and make a list of the most important points.

You may want a garden or you may want a terrace, you may want a property within walking distance of shops or near the train station etc. Use the internet or library to source information about the town or area you have in mind. Check your wish list against the properties available for sale on line or in property magazines to see if your budget is going to buy you what you want. Make a note of the agents in the area who appear most often during your search. Companies with a high profile in the area are generally the larger companies who have been established longer.

2) Always use a reputable estate agent.

An SL company is the best as they are the same as a Limited Company and will be registered at the Spanish equivalent of Companies House (Registro Mercantil) in Madrid. You can check their registration and view the records of the company if you wish.

Ask for the company's CIF number which is their registration number and this will make it easy to locate them in the Mercantil.

It is still the case that some agents are individuals who work out of their car with a mobile and hang around tourist areas to see if they can pick up clients. This is a high risk way to buy a property and many have fallen foul of this practice and bought un-registered properties with a whole raft of problems.

3) Before you can buy a house or a car in Spain you require an NIE number.

This can be obtained through your solicitor or in person at the appropriate Police Office. They can be made same day or take up to a week depending on the office you apply to and whether they are busy. It is a sheet of A4 paper giving a number which normally contains two letters and 7 numbers. This number is yours for life. If you decide to live in Spain it can be converted into a residencial ID number. It is normal to give this number for all sorts of reasons – to buy a car or house, to register at a doctors etc. ID cards are frequently used in Spain and we are used to giving our details on request.

4) When you meet the agent make clear to them what you want to buy.

Tell them how many bedrooms, bathrooms, what location, any special requirements such as a separate dining room or garage and most importantly tell them the total budget. Remember in Spain the house price has to have taxes plus other costs added on. If you allow 10% to 12% of the house price over and above the selling price this should cover you. Do not be afraid to tell the agent what you think of each house as you view. This will help them to narrow down what they have available to what you are looking for.

If you are viewing with more than 1 agent in the same area you may be shown the same house twice. All agents ask their clients to sign a viewing form. This form ties you to the agent with whom you have viewed the property.

If you are taken to the same house with another agent you cannot buy with them or you will be in breach of contract with the initial agent who showed you round. If you are taken to the same house by a second agent tell them that you have already viewed. This should be the end of the matter but if they persist and want you to view be aware that you may end up having to pay them commission if you buy and having to pay the first agent also if he finds out you broke your contract with him.

5) Power of attorney

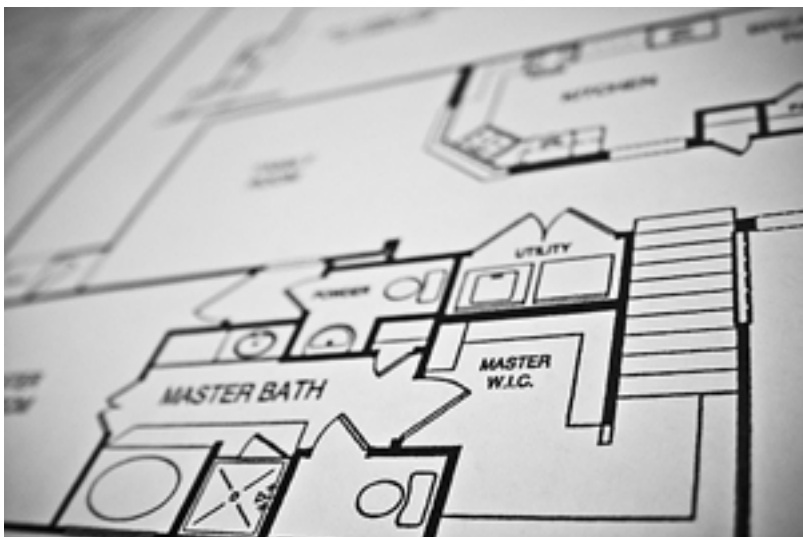
Once you have found the right house it is necessary to decide if you want to return to Spain to sign all the papers or if you want someone else to do that on your behalf. It is important to take into consideration travel costs, accommodation costs, work commitments etc when making this decision. It may be cheaper and easier for you to make a Poder. This is a power of attorney in another persons name so they can sign all the paperwork for you. You may wish to appoint a relative who lives in Spain, a friend or your solicitor. Whoever you appoint you must have confidence in them to represent your interests.

6) Buying from a developer, or off plan

If you buy a house off plan from a developer or agent, once you have chosen which property you want, they will ask you to sign a purchase contract and pay a deposit. You must take legal advice before you sign the contract.

Remember all contracts in Spain are in Spanish. Some agents/developers offer an English translation but not all.

If your solicitor is happy with the contract you will sign and pay a reservation deposit. You will then make stage payments for the property. If the house is not yet built then you will probably make 3 or 4 payments with the final payment being on the day you sign at the Notary office and get the keys. If the house is already in-build you may be asked to pay more initially and then revert to the standard payment structure.



If the house is complete then you will have to pay a large initial deposit and the balance on signing or you may be allowed to pay everything on the day of signing. This is negotiable and your solicitor will deal with this for you.

7) “Promise to buy”, and deposits

If you are buying a resale property it is normal to sign a compraventa (a promise to buy) and make a deposit. Again you need to speak to your solicitor before you take this step. The deposit is normally negotiable and depends on how soon you can finally sign and pay for the house. Deposits are non refundable so if you have applied for a mortgage and it falls through you will lose the amount of money you paid as a deposit. On the other hand, if the buyer finds someone else to buy their house, they must repay you the money and sometimes up to double the amount.

8) Paperwork

There are a lot of papers which need to be checked prior to purchasing a house and the first step is to obtain a Nota Simple for the property. This is normally supplied by the selling agent but you can obtain them on line or direct from the appropriate Council Office for the area. This document really requires a specialist to look over it in order to assess the legal situation regarding the property. In addition many other things must be checked prior to purchase as debts in Spain go with the property not the owner. You do not want to buy a house to discover that the previous owner has not paid the electric bill as you would become liable for the debt.



Likewise if he bought a car on HP and did not make all the payments you could find yourself paying for a car you have never seen.

9) Contracts

Providing your solicitor is happy with all the paperwork the next step would be the preparation of a private contract (this only applies to resale properties). This document is drawn up by the seller’s solicitor and details the agreement for the sale of the house.

10) Appointment at the Notary

The next step is an appointment at the Notary where you, your solicitor, the buyers and their solicitor plus the banks and estate agent will all meet. You will require your passport and NIE documents as copies will be taken by the Notary. Everyone sits round a large table (there can be up to 12 or even 15 people) at the meeting and the Notary reads over the sale of the property and explains any pertinent points to the purchaser. If the purchaser does not speak Spanish to a good level a translator will be required to translate what is being said and vouch for the fact that you understand the proceedings and what you are agreeing to. Your solicitor can translate for you if they are bilingual.

**ALWAYS REMEMBER TO FOLLOW THE STEPS AND
YOU SHOULD AVOID ANY PROBLEMS.**

Is This The Right House For Me?

There are many things to be considered when searching for a house in another country. The most important being what you will use the house for. Is it for holidays, for rental, to live in, as an investment or as a combination of several of these options.

The house you buy for holidays or to rent can be very different to the house you buy to live in. If you are buying for holidays you may want to be near the beach with lots of bars and restaurants close by or near to public transport so you can take day excursions.

BUYING TO LIVE IN THE COSTA DE LA LUZ

However, if you are buying to live you probably do not want to be near the beach as beaches can be busy and noisy places especially in the summer months and many of the bars and restaurants will be seasonal and closed in the quieter months (October to March) leaving you having to go some distance just to have a beer or get a snack. The chances are that if you live there you may want to have a car so the public transport side becomes less important also and you may be looking for more of a community feel where there are other people who live there all year round rather than an area where the houses are closed up part of the year.



COMBINATION OF HOLIDAYS AND RENTALS

If you are looking for a combination of holidays and rentals then you need to consider who will keep the house in tip top condition, who will handle the bookings and who will do the cleaning and maintenance. Unless you intend to spend a lot of your leisure time handling the bookings and your holidays doing the maintenance and cleaning then you need to consider having a management company to do them for you. People think that things do not get dirty in a nice sunny country but we have very heavy rains in the rainy seasons which bring large quantities of dust and sand and deposit it on the terraces and in the pool. The paint work is subjected to cold and wet weather followed by extreme heat which means that it needs regular attention and glass is constantly needing cleaned and polished.

Choosing the right property for this combination of uses is also very important. A detached house with garden and swimming pool may be your dream but may not be practical to keep if you are not going to live here. Having to employ people to do the work costs money and

The Spanish Papertrail Made Easy

The aim of this section is to explain the various terms for documents etc used in the purchase of a property. There are many papers involved in a house purchase and the Spanish are masterful bureaucrats.

Everything has its paper and most things have three papers. While we hope this will help you to understand the papers and the course they take it is in no way intended to replace the services of a good solicitor. Many documents are open to interpretation and tell a story in the greater picture but to rely on them individually can lead you into troubled waters.



COMPRA VENTA - This is a document you sign to say that you are interested in buying a property and it is usually accompanied by a small holding deposit maybe around 2,000 euros. This payment is only to keep the property until the Private Contract can be drawn up and signed.

SENAL – Another name for the document and also for the deposit paid.

NIE – This is a national identification number. You can obtain an NIE through your solicitor or direct from the appropriate Police Office. They are also available on line. You will require your passport and a copy of the photo and data page. An NIE number is yours for life and you will be asked for it when buying a car or house, when making an electricity, water or gas connection and for some purchases.

NOTA SIMPLE – This is a short informative note obtained from the Property Register (Registro de la Propiedad) which gives the name of the owner and details about the property, including the current owners names, the square meters of the property for both the dwelling and the land, the boundaries, a classification – whether it is rustic land or urbanized or if it can be urbanized in the future, what rights other people may have – public footpaths, communal pipes etc and finally if there are any debts against the property. Debts shown on the nota simple can be for unpaid taxes, mortgage arrears or fines.

PODER – This is a power of attorney which can be made by you so you do not have to be present in Spain to sign the various documents. It can be in the name of a relative, friend or representative for instance your solicitor. A Poder can be used for buying a house, selling a house, opening a bank account, transferring money, signing for a mortgage. This is a powerful document and you should only give this power to someone you trust to carry out their duties in your best interests.

PRIVATE CONTRACT - this is a formal agreement where the details of the sale are laid out.

It will also show the terms of the sale, the price and the (arras), which is when the buyer pays a larger deposit for the house. A normal deposit would be 10% of the house sale price but it is negotiable and can be up to 20%. If he fails to buy the house then the seller keeps his money. However, if the seller finds another buyer the purchaser is entitled to have his deposit returned at double the amount paid.

HIPOTECA – The mortgage. When negotiating a mortgage with a bank remember that in Spain all things are negotiable. There is normally an opening percentage for you to pay, a closing percentage if you decide to pay off the loan before the natural end of the loan period and a percentage if you decide to vary the mortgage i.e. pay off part of the loan. Make sure you haggle for the best rates on these. A mortgage can be a variable or fixed rate and again you need to haggle. The amount you pay per month is normally a percentage over the EURIBOR (The Euro Interbank Offered Rate).



TASACION – The Tasador (Surveyor) comes to the house and does a survey. This is normally arranged by a bank to establish a value for the property.

ESCRITURAS – These are the title deeds. However in Spain they generally are not the large tome of paper we are used to seeing in the UK and rather than the solicitors keeping them they are returned to you with an account showing what your expenses were for the purchase of the house. It is vital that you keep your Escrituras safe and in good order as you will undoubtedly need them in the future.

NOTARIO - The Notary is basically a public witness. They are responsible for drawing up the deeds (Escrituras) and for the tax due to the Registro Catastral and for having the names of the new house owners inscribed in the Registro de la Propiedad. They charge fees to both the purchaser and seller according to a scale set by the government. Their function is not to safeguard you against a bad buy, that is the responsibility of your solicitor.

SEGUN LEY – Is a term you may hear at the Notary. It means according to the law. This term applies to the division of expenses for the sale of a property. There are certain expenses which are normally paid by either the seller or the buyer. As with most things these can be negotiated but generally they are dealt with segun ley (according to the law).

LIBRE DE CARGAS – You may also hear this term at the Notary office it means free of charges. This means that there are no debts on the property. These Cargas would show up on the Nota Simple. Unpaid cargas can be levied against a house by the council for unpaid community charges or local taxes or for things like unpaid mortgage arrears.