

My Lawyer in Spain



Things to consider when selling your Spanish property

A) What property documents may a buyer request?

- ✓ Getting these documents ready for potential buyers and estate agents will increase your chances of selling the property and speed up the process.
- Escritura de Compraventa of the property or deeds of the property
- Current Town Hall rates receipt also known as the IBI (Impuesto de Bienes Inmuebles)
- Latest Water, electricity, gas and telephone bills
- Current Invoice for Basura (rubbish) if there is one

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- ❑ Certificate from the Administrator for the Community of Owners confirming all community payments for the property are up to date
- ❑ Community of Owners latest invoice
- ❑ Minutes of the Community of Owners meetings for the last three years
- ❑ Up to date licence of first occupation (licencia de primera ocupación), if available
- ❑ If you are a foreign tax resident in Spain, a certificate from Hacienda confirming you are a Spanish tax resident

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- ❑ If there is a mortgage on the property, contact details of the local bank manager and most recent mortgage statement
- ❑ Passports and NIEs of all owners
- ❑ A Power of Attorney if you will not be in Spain for the completion
- ❑ Inventory of furniture that will be left or items you are prepared to sell
- ❑ Instruction manuals for air conditioning, heating, swimming pool pump and other machinery.

B) Preparing your property deeds for a sale

- Have you extended your property or built and not updated your property deeds?
 - ✓ Take steps to update your deeds before agreeing to a sale in order to avoid delays
- Or wait for a buyer to pay a deposit and then update the deeds?
 - ✓ Let your buyer know upfront of any outstanding legal issues and agree the Contract based on these being resolved.
- Is your license of first occupation or habitation certificate (licencia de primera ocupación or cedula de habitabilidad) still valid?
 - ✓ If not, renew it at your local town hall.

C) Accepting an offer

- Once you have accepted an offer for your property, there will typically be three stages in the sales process:
 1. The estate agent is likely to arrange for the buyer to sign a reservation contract and pay a reservation fee between 3000€ and 6000€ to allow the buyer's lawyer to check the property documents and ensure all is in order.
 2. Signing the sales and purchase contract and payment of up to 10% of the purchase price.
 3. Completion of the sale and purchase before a Notary.

CONTRACT

Not all property sales follow the above stages. Sometimes the buyers sign a Purchase Contract without signing the reservation Contract. On other occasions the Parties go direct to the Notary to sign the Sales and Purchase Deed.

D) Completion

- ✓ Completion of the sale and purchase will occur before a notary public when you will hand over the keys to the property and receive a banker's draft for the agreed price, less any deposit received.

- ✓ What to bring with you to completion at the Notary?
 - ❑ All the documents listed in section A
 - ❑ In particular, up to date bills and invoices for water, electricity, town hall rates and community fees (and agree on apportionment with the buyer before completion)

Tax resident?

- ✓ Are you a non-Spanish tax resident?
 - ❑ If so, the buyer will retain 3% of the purchase price and pay this to the Spanish tax office as a part payment on account of your Spanish Capital Gains Tax liability.

- ✓ Are you a Spanish tax resident?
 - ❑ If so, you will include the sale of the property in your annual tax return after completion.

E) Post completion

Capital gains tax

- **Non-Spanish tax resident:** you have four months from the date of completion to submit a tax declaration for Spanish Capital Gains Tax and either seek a rebate of the 3% retained or top up your Capital Gains Tax liability.
- The tax rate for Capital Gains Tax is 21% for non-Spanish residents.
- The costs incurred in the purchase and sale of the property are deductible expenses.

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- These deductible costs include:
- Transfer of tax upon purchase
 - Notary and land registry fees
 - Legal and estate agent fees
 - Costs of any renovation that required planning permission which extended the property for which you have original VAT invoices

Unfortunately, the tax authorities are not quick in returning the retained 3% or a part of it, therefore you will need to keep your Spanish bank account open until you receive the rebate

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Plusvalia

- ✓ This is a local tax payable to the Town Hall based on the number of years you have owned the property and the increase in the value of the property.
- ✓ This tax is payable within 30 days of completion of the sale.

Call the My Lawyer in Spain team to talk to them
about your Spanish property sale!

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Visit our website for a great advice on buying property in Spain

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