

## **Buying Property in Spain**

Some of us have only ever dreamed of owning a place in the sun but the reality of owning a Spanish retreat whether for weekends or the longer term is happening for a growing number of people.

Holidays can be wonderful relaxing experiences but for most people they are only a couple of times a year and since they are often in locations or accommodation not visited before, they can be rather a gamble. Buying a home for overseas holidays ensures that you know the location and accommodation and can do what you want with the house to make it a real "home from home", but you may still only be able to stay there a few times a year because work or other commitments in the UK prevent you from spending long periods abroad. However, transport within Europe has now become so swift, frequent and inexpensive that it is possible to have a holiday home in a wonderful location (and climate) which is near enough to visit for weekends. Once there you can simply relax, or use it as a base for exploring the surrounding areas. You'll be surprised at how much you can fit into a weekend and still feel relaxed at the end of it.

With Europe's ageing population more and more people are coming up to retirement age at a younger and younger age. Often their children have flown the nest and many are now selling their homes and opting for something smaller whilst investing the monetary difference in an overseas property.

Then there are younger couples, probably with two good incomes and a taste for foreign travel. Investing in a home in the sun makes an interesting alternative to squirreling it away in a pension fund. Chosen carefully, an overseas property should gain in value and provide a reasonable return from rentals while providing idyllic holidays whenever you want them. It could even be an eventual retirement home.

Of course, there's no shortage of people willing to make an even more substantial commitment by moving lock, stock and barrel to Spain. Now we have faxes, mobile phones and the internet an increasing number of people are no longer working nine to five anymore from a fixed location but are able to relocate their business overseas.

So for all these and many more reasons escaping cold, grey and expensive Northern Europe may be the best move yet.

## **Buying Costs of Property in Spain**

Although property, particularly rural houses in Spain, are generally cheaper than in the UK the cost of buying is higher.

The main reason for this is the purchase tax of 7% on all property sales, this is known as IVA and is the Spanish equivalent of VAT. You will also have charges for land registry fees, legal costs and notary charges. These will take the buying costs up to a around 10% of the purchase price.

Once purchased the annual taxes on a Spanish property obviously vary with the property in question. In general they are not too penal, a typical two-bedroomed apartment will usually have total annual costs of between £1,000 and £1,500.

This includes charges for water, electricity, waste disposal, community charges, insurance and annual property tax. It also includes a payment to a Spanish representative to account for these payments (a Spanish Accountant).

### **Arranging Finance to Buy a Property in Spain**

With the lifting of almost all exchange controls, both residents (in Spain) and non-residents may now obtain loans and mortgages against their Spanish property in any currency from any bank in the world - if they can find a bank willing to lend against property in another country.

The good news is that the inflation and interest rates are lower than the UK, with a prime lending rate of around 4%. Spanish bank mortgages are now being offered at rates between 4.5% and 5%, amongst the lowest in Europe.

Similar low rates are also being offered for the purchase of Spanish properties from Gibraltar based subsidiaries of major UK building societies.

At the moment it looks an attractive proposition to take out a mortgage in Spain. The downside is that if the euro begins to recover in value against the pound, although your property will be worth more, your monthly mortgage payments would increase.

Normally the maximum term for a Spanish mortgage is up to 25 years on 75% of the valuation of the property. There are so many different packages available that we suggest you use the services of an experienced international mortgage broker who will explain the pros and cons as well as providing you with the mortgage they feel would suit you best at the most favourable rates.

### **Legalities of Buying Property in Spain**

There are differences between buying a property in the UK and in Spain. The following brief guide explains in simple terms the process of purchasing your Spanish property - hopefully enabling you to proceed with confidence and peace of mind.

It does not cover all aspects of Spanish property law and is not a substitute for professional advice and representation. It is advisable that you have your financial arrangements more or less in place so you are ready to proceed quickly (refer to finance section).

Once you have settled on your chosen property you will need to appoint an independent lawyer who is experienced in Spanish property law and has a good knowledge of the area you are buying into. In the case of resale the lawyer will check that the property belongs to the seller and has the necessary building permissions. An important part of the lawyer's responsibility is to check the seller is free of debt because under Spanish law any debts will pass to the new owner. For new construction the same checks will be made on the land along with a background and financial check on the builder.

When your lawyer is satisfied you provide a signed contract with a non refundable 10% deposit which will then be matched at the same time by the seller. This is to stop the practice of gazumping, which because there is now too much to lose, does not happen in Spain. If you cannot be present in person to sign the contract

or indeed the final completion contract you can grant your lawyer (a poder) power of attorney so he can complete on your behalf.

The contract will state the dates for subsequent payment of the balance due, which needs to be carefully observed. You will of course be provided with a copy. Your lawyer can also arrange your NIE (foreigner's identity number), residency application and Spanish bank account as appropriate. On completion day both parties or their representatives with power of attorney will appear before the Notary, who is a government official responsible for the execution of public documents and to ensure compliance with Spanish law.

The Notary acts for neither party and does not replace the need for your own lawyer but witnesses the signing of the Escritura de Compraventa (the transfer deed). At this time the balance of the purchase money will be paid to the seller and any remaining purchase tax and fees will be paid. You will then have the keys to your new property and a copy (Copia Simple) of the title deed until the formal deed comes to you from the land registry.

At this point you can instruct your lawyer to set up accounts for utility services such as water and electricity and Spanish resident taxes which he can arrange payment of through your Spanish bank.

On a final note it is worth considering that the inheritance laws in Spain are different than in the UK. In the event of death your property may be divided up equally between your partner and children. In the UK unless you have made preparations otherwise it would all revert to your partner. It is therefore advised that you instruct your lawyer to make a local will to suit your wishes.

### **Renting Out Property in Spain**

One way of making some money from your holiday property is to rent it out. Most holiday homes are occupied for less than three months a year. Your overseas home is an asset that could generate several hundred pounds a month for you.

If you want to maximise your returns from renting remember that the property must be of the kind that can be easily let out. Things to consider may be that it is close to the sea, reasonably near a major airport and not too isolated from shops, bars and restaurants. Rental returns of around 3% should not be hard to achieve from renting your property to summer visitors in the school holidays.

### **Renting Property Out on a Mortgage**

Mortgage lenders typically will not lend to a property that is going to be let out long term because of the risks involved. Getting rid of unwelcome tenants can be a long drawn out process.

However, most lenders are prepared to take a blind, even benevolent, eye to renting out the property for holiday lets to family, friends or work colleagues. It makes sense to all parties, the more a holiday home is visited, the more secure it is from a security viewpoint. Regular use ensures that the state of upkeep is better. If something goes wrong with the property then the sooner that it is found out and sorted the better. And that's as important for the mortgage lender as it is to the homeowner

## Spanish Income Tax on Property Rentals

Even if nobody else mentions it, you are liable to Spanish income tax on any income you have in Spain arising from rentals. If you are a resident, you should declare your rental income as part of your earnings and you will be taxed at your normal income tax rate. If you are a non-resident, you are subject to tax on income arising in Spain at the flat rate of 25% - although it has to be said that few owners actually seem to declare a great deal of income from their property!

## Buying a Business in Spain

Spain provides plenty of opportunities for running a successful business. As a foreigner your business really needs to be aimed at other foreigners or holidaymakers, the Spanish do not usually patronize foreign businesses unless they are offering something unique. However with the large increase in residential tourism taking place at present there are new opportunities springing up all the time. Owning and operating your own business in a foreign country does present problems but with proper advice and planning any risks can be kept to a minimum. The following is a guide and is no substitute for professional advice which can be given on a one to one basis.

Always consult a lawyer

There are many examples of being duped to greater and lesser extents. In Spain if you are not buying the freehold of the premises then you will be paying for the "Trespasso". This is for the goodwill, internal fittings, plant and stock of the business. You will then rent the premises from a landlord, who will require a deposit. These are all critical areas where problems can arise.

1. Opening Licence. See it and get a copy. This should be available at the premises. If the actual licence or a copy cannot be provided then the business does not exist legally. You can agree to buy the business without the licence and negotiate the price accordingly, but get quotes on the costs and likelihood of eventually obtaining a licence first. The final costs of meeting the various criteria and obtaining an opening licence ('Apertura' in Spanish) for a particular business is a large variable. If a business you are considering buying has applied for a licence, and is running pending acceptance of the application for an apertura, then ascertain exactly (from the authorities, not the seller) why the apertura is delayed and what the current status of the application is.
2. Rental contract. You must get a copy of this. It will show;
  - How much longer it has to run
  - Who is responsible for what type of wear and tear
  - What percentage of the trespasso relates to the landlord, what fittings belong to whom
  - If the seller has the right to sell the lease
  - Whether it is renewable at the end of its term
  - When and what any rent increases might be
  - Whether you can sell the business on again
  - Who pays for what-refuse collection, electricity, water, rates, taxes etc.
  - All the other terms a tenant is required to comply with.

3. **Trespaso.** Don't pay too much. If you pay more than its worth (fittings, etc) a lot of your capital will have been consumed immediately. Goodwill is intangible, so be sensible about this. The higher the past trading figures the higher the price of the Trespaso, a difficult one because Spain is primarily a cash economy and some of the turnover may not have been declared!
4. **Landlord.** It is a legal requirement that you contact this person when the tenancy is changing hands. Paying too much rent is probably the biggest single cause of business failure in Spain so make sure you agree with the landlord the exact rent required and any contract changes.
5. **Contract of sale.** Get a copy beforehand-you must read and understand everything in the contract, so that you can check everything carefully well before the day of signing. The contract should specify every item which is included in the sale, the terms and timescales involved and guarantee that the business is free of encumbrance, debts and liabilities.
6. **Notarial approval.** If you don't "Notarise" the signing of the contract and handing over of the money your ownership may be challenged at a later date and you may not be able to claim tax allowances against your capital outlay.
7. **Limited Companies (SL).** Beware they can have all sorts of hidden liabilities and a thorough check must be carried out on them by a professional. Also bear in mind;
  - Taxes are higher than a "sole proprietor"(34% compared with 25%).
  - Costs of formation are comparatively high.
  - Annual audited accounts are necessary and the appointment of an "administrator" is mandatory to comply with all the statutory obligations of a limited company.
  - Companies cannot be bought off the shelf.

### **Legalities of buying a business in Spain**

Bear in mind that with the exception of a "residencial/work permit (required by any foreigner) all other legalities must be complied with by everyone-not just you. Many people think that the bureaucracy is there just to make life difficult for them but the truth is we all have to live with it. Most documents in our modern, complex world are necessary to prove that you;

1. Are legally identifiable and entitled to be where you are doing what you are doing.
2. Can produce the documents necessary to prove you are the real owner of anything you claim to own.
3. Have met every statutory requirement relating to either of the above.

Make sure you can produce any necessary documents, e.g., residencial, trade licence, statutory payment receipts (social security, rates, licence fees) when required to do so.

### Professionals

Don't use a lawyer to fight a case, use him to avoid a case by consulting him before problems arise. Ensure that any documentation associated with your business (from the rental contract through to your terms of business with your clients) has been correctly worded and is legally effective in protecting your interests. A good accounting service will always save you money, more so in Spain than in other places.

### Capital

Don't overstretch yourself. Remember that the higher than normal start up costs and lower turnover will call for some funds in reserve.

### Good Service

Whether you are beginning an enterprise you have no previous experience in, or continuing your own profession, you must do it well. Do not start something beyond your capabilities. Verbal recommendations can make or break a business- forget get rich quick schemes, long term these never work. No matter whom you are providing a service to, offer a good service at fair prices and word will spread. With patience and hard work you will succeed.