

BUYER AND SELLER'S GUIDE

The intention of this simple guide is so that you may become familiar with the steps that one must take when purchasing a property in Spain. Remember that your Real Estate Agent, Inmobiliaria Cala D'Or will take care of all these steps and will keep you informed and up to date.

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1. Precautions

In Spain, for the time being, any person can be the middleman in property sales without having to have any kind of academic degree or professional formation. This has led to there being a large amount of Real Estate offices available to the public or private persons with no studies, degree or formation in the subject and only needing a mobile phone, languages and “good contacts”. This legal “loop-hole” has without a doubt caused many misunderstandings and problems to both buyers and sellers which often have little or no solution due to the fact that the middleman did not know the law and was lacking in professional knowledge.

Tips:

- Official Agent:** Be sure that the middleman intervening in the purchase/sale of your property has the adequate preparation and studies to act on your behalf. Nowadays there are many associations that ensure this although the most well know and best thought of, authorized by the ministry responsible for public works (Ministerio de Fomento) is the [COLEGIO DE AGENTES DE LA PROPIEDAD INMOBILIARIA \(A.P.I\)](#) Be sure that your Real Estate Agent shows you his professional identification card proving that he is an A.P.I as a guarantee of his ability, knowledge and professionalism as a Real Estate Agent.
- Lawyer:** Even though your Real Estate Agent will take care of, and make sure the transaction goes smoothly, it is always a good idea to have a unilateral second opinion and legal advisor to assess you during and after the process of sale/purchase. For this reason, although not a legal obligation, we would advise the intervention of a lawyer that will act in your name and will co-ordinate with your

agent and give you good legal advice during and after the transaction.

The lawyers fees vary between 1% and 1.5% of the purchase price. If you wish, we can recommend a list of excellent multilingual professional lawyers in whom you can trust.

2. Reservations

Once you have decided which property you wish to purchase, what follows is very simple:

Signing of the purchase option contract:

There are a variety of option contracts and we have found the following to be the most recommended:

- a. **Documento de Arras (deposit document):** This is a document in which the buyer gives the seller a sum of money as a deposit on the total amount due for the purchase and hence ensures that the purchase goes through, that is to say, the buyer would lose this deposit if he pulls out of the purchase within the limited time and conditions shown on the contract or, on the other hand, if the seller were to pull out, he would have to return this sum to the buyer twofold. This type of document is usually used for deposits of small amounts of money or inferior to 5% of the purchase price and being for short periods of time.
- b. **Documento de opción (Option contract)** This is a document similar to the one mentions previously but is normally signed when the deposit is superior to 10% of the purchase price and the duration of the document is for a longer period of time. The main difference between the deposit document and the option contract is that the seller is obligated to sell, if and when all the conditions pacted have been followed to term, that is to say, the seller does not have to return twofold the deposit unless the buyer gives his consent.

N.B.:

Always be sure that the person that signs the document and receives the deposit figures on the contract and is fully authorized to do so by means of the corresponding documentation.

3. Signing at the Notary

Once you have signed the option or deposit contract your Real Estate Agent will coordinate the operation with the various people intervening in the purchase, from bank mortgage, if there were to be so, to the final signing of the deeds at the Notary Public. Your agent will make a thorough check of the following documents among others:

- a. **Ownership of the property**
 - b. **Situation of property taxes**
 - c. **Situation of community charges**
 - d. **Preparation of the contract for the Notary**
 - e. **Verification of the last payments for services: water, electricity, gas, telephone etc. and the change of name for the before mentioned**
 - f. **Verification of payments of local and Town Hall taxes**
 - g. **Supervision of the correct inscription at the Property Registry of the signed contract at the Notary**
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4. Payment of costs and taxes

The buyer:

The main costs that are covered by the person buying a property in Spain are:

- a. **ITP or IVA. (8%-10%)** There generally are in Spain two types of taxes when buying a property: I.T.P.(Impuesto sobre Transmision Patrimoniales/Inheritance tax) or I.V.A (Impuesto sobre el Valor Añadido/ VAT). In both cases they are (8%-10%) of the price. I.T.P is used in second hand properties and I.V.A in new build. This is always paid by the buyer
- b. **Notary fees:** The sum is fixed by the state. Normally at 1% of the purchase price
- c. **Registry office fees:** These are also fixed by the state and range at around 1% of the purchase price
- d. **Gestoría (office that deals with legal paperwork) fees regarding paperwork for tax and inscription at the Registry normally come to about 300 to 400 Euros.**

The buyer normally has 30 days after the signing of the deeds to pay these sums. Even so, we recommend payment as soon as possible as the inscription of the property at the Land Registry depends on these payments.

Seller:

- a. **PLUSVALIAS PATRIMONIALES/ Inheritance tax:** The seller, whether he is a Spanish resident or not must pay 21% on all benefits obtained dicounting costs, when buying or selling a property. If the seller is a foreign non-resident in Spain, the law obligates the buyer to retain from him 3% of the purchase price when signing the deeds. This retention must be deposited by the buyer at the Tributary administration within 30 days and this will go towards the Inheritance tax of the seller (21%) as before mentioned.
- b. This tax is generated by the amount of years of ownership of the property and the cataster value of the land. It is calculated by the Town Hall once the sale has

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gone through. In the Balearic Islands it is common practice that this tax is also paid by the buyer although by law it is the seller that must pay this sum as in the end it is to his benefit. So, this is negotiable.

Owner:

Now we are the owner of a property and we need to know what taxes and costs are to be paid per annum:

- a. I.B.I. (Urban Contribution) This is a local Town Hall tax. It is paid once per year in a lump sum. The amount depends on the location and size of the property.
- b. Garbage collection Local tax also paid once per year, normally in the region of 100 Euros and 200 Euros.
- c. Tax declaration: Although you may not be a resident in Spain, you are obliged to declare. You only need to declare what you have in Spain. We will aid you in this.

Ordinary costs:

We now own a property and need to know what taxes and on-costs we will have to pay. :

- a. **Electricity**
- b. **Water**
- c. **Community fees (If the property is withing a community).**

It is not necessary to tell you that your agent will co-ordinate all the documents necessary and will aid, assess and organise the payments of the different taxes.