



RAYMUNDO & HOPMAN ABOGADOS

**Independent
Solicitors
& Barristers**

**Newsletter
*April 2016***



The purpose of our lives is to be happy – Dalai Lama

WHAT'S NEW

BREXIT: What it would mean if Britain were to leave the EU (PART II)



As mention in the previous article, it is not possible to anticipate what it would happen if UK were to leave the EU. However, rivers of ink have flown since the referendum was announced.

And, everybody seems to have a clear opinion about it so you can find a huge collection of articles about BREXIT also in the Spanish media, by example:

EL PAIS (National paper)

An article written by Ana Palacio, former **Foreign Affairs Minister** in this important Spanish paper criticises the way in which some of the “Leave” followers are giving a wrong idea to the UK people when saying that everything will be easy if UK leaves the EU as in her opinion, it will not be. Using her words, the negotiations UK-EU after the referendum, in case the “leave” wins, will be difficult and will take for years in detriment of citizens and companies as she wonders who would be making long term investments in UK when not sure about which legal terms will be ruling in the future.

http://elpais.com/elpais/2016/02/02/opinion/1454433900_811261.html

LEVANTE (Valencia Region)

In the opinion of the journalist of this regional paper, the financial consequences for Spain in case of Brexit would not be as hard as it could be if another important EU country was about to leave as the UK is not part of the Monetary Union. However, the depreciation of the pound is causing severe financial damage to the Spanish Economy as British tourists now spend less than before.

The article mentions that import-export with the UK will be more expensive for both countries due to the toll fees and also explains the possible limitations of people circulation because the visas, or, the legal boundaries or limitations for Spanish workers in UK and British workers in Spain.

<http://www.levante-emv.com/finanzas-personales/2016/04/08/consecuencias-espana-posible-brexit/1401623.html>

LIBRE MERCADO (Conservative Financial paper)

In this article the writer explains the reciprocity with non-EU countries as Switzerland or Norway and how UK, if eventually leaving the EU, will have to accept the EU regulations if still wants to commercially deal with the EU countries as these two other non-EU countries actually do. In the opinion of the journalists, to leave or to remain will involve similar funding from UK to the EU and therefore, will cost the same money to the citizens.

<http://www.libremercado.com/2016-04-22/jose-garcia-dominguez-el-brexit-es-una-fantasia-78778/>

**Articles are in Spanish, if you want to translate it into English please, open it with Google Chrome and use Google translator (click right bottom of your mouse/translate).*

As mentioned in a previous article, if you left the UK after 2001, the **British Consulate in Alicante recommends registering to vote:**

<https://www.gov.uk/register-to-vote>

***Please, register for a postal vote by May 16.**

Connie Raymundo – Lawyer & Barrister at Raymundo & Hopman Abogados.

A British tourist arrested in Jávea for the death of a friend in a drinking area.

By Ignacio Ganga. Lawyer.



A British citizen has been arrested on suspicion of pushing a friend to his death. The victim aged 42 years, was found dead last Sunday night, after breaking his neck in the fall on the Arenal area in Javea.

It is said, both were drinking during the afternoon and went into an argument outside a pub when one of them pushed violently the victim who fell and died after suffering convulsions. The aggressor left the scene and the Urgency Medical Services just could confirm his death.

At the moment the crime is under investigation at Denia Courts as some CCTV footage from the area had shown clearly the aggression. The aggressor has been arrested at his domicile and the crime is under investigation for homicide.

Homicide is a major crime which is punished with 10-15 years imprisonment for severe cases (Homicidio doloso art. 138 Criminal Code), but also has a wide range of considerations for minor circumstances, as Homicidio Imprudente (art 142 Criminal Code) which could be this particular case, with 1 up to 4 years imprisonment.

Also, the use of the alcohol can reduce the punishment for this type of issue if heavy intoxication is probated.

Raymundo and Hopman has an experienced Lawyers team for criminal issues. Please contact us for any consultation.

Ignacio Ganga – Lawyer & Barrister at Raymundo & Hopman Abogados.

EU INVESTORS PROTECTION (Part II).

By Connie Raymundo. Lawyer.



As mentioned in a previous article the EU Regulations called **MiFID** are addressed to increase the protection of the investors. Also, we listed the three different types of Investor, in accordance to the MiFID Directive: Eligible counter-parties (no protection), Professional (low protection), Retail Clients (highest protection), so this last group, where almost all of us belong, is the one we will be discussing in the following lines.

Once an Investor has been classified as **Retail Client** by the Financial Adviser or Financial Products Dealer, MiFID provides that not all products may be suitable for him as it will depend on his tolerance to risk. Consequently, and in accordance to MiFID, the retail client and prior to any investment will have to answer to the many questions included in the following **two tests**:

1. **SUITABILITY TEST:** The purpose of this test is to know the client's previous experience and knowledge on investments. The result of this test will indicate which products are suitable for this specific client. It is made up of 3 sections where questions will be addressed to different subjects:
 - a) FINANCIAL OBJECTIVES; type of products the client is familiar with.
 - b) FINANCIAL CAPACITY; Investments, incomes, etc.
 - c) FINANCIAL EXPERIENCE AND KNOWLEDGE; studies, profession, etc.

2. **APPROPRIATENESS TEST:** This test is addressed to assess the client's attitude towards investments risk. Again, it is made up of three sections with different questions:
 - a) SUITABILITY TEST; the above explained test has to be usually included in the appropriateness tests.
 - b) FINANCIAL SITUATION; the current financial situation of the client.
 - c) INVESTMENTS OBJECTIVES; benefits the client pretends to obtain, length of the investments, etc.

With the results of this test, which is mandatory for every retail client, the FA or Products Dealer will determine the client's tolerance to risk in order for the client to be included in one of the four tolerance to risk groups that we will be explaining in May's Newsletter article.

HOW SAFE IS YOUR PENSION?

By David Diggle – Financial Adviser



We have all read in the press recently about the demise of BHS, but the most worrying part of the story is how this will impact UK taxpayers and BHS pensions.

UK taxpayers will have to cover the statutory redundancy pay of the company's 11,000 staff. Based on previous failures such as Comet, city experts believe the bill will top £40million.

At the same time, every worker in the UK who is a member of a company pension scheme will have to help fill a black hole estimated at £571million in the BHS pension scheme. This is because the Pension Protection Fund, which steps in when businesses collapse, gets its money through a levy imposed on all company schemes.

Labour MP John Mann, who is a member of the Commons Treasury Select Committee, said: 'Sir Philip Green and his family have made millions out of BHS and its hard-working staff.'

'He took over a company with a healthy pension pot, yet when he sold BHS a black hole had appeared in its fund.'

The Guardian has calculated that "Sir" Philip Green and his family collected £586m in dividends, rental payments and interest on loans during their 15-year ownership of the retailer.

What is the Pension Protection Fund and what does it do?

The Pension Protection Fund was established to pay compensation to members of eligible defined benefit pension schemes, when there is a qualifying insolvency event in relation to the employer and where there are insufficient assets in the pension scheme to cover Pension Protection Fund levels of compensation.

What does it offer:

- If you were retired and over the scheme's normal retirement age and were taking a pension when your employer went into administration then the Pension Protection Fund will generally pay 100% compensation.
- If you retired early (except through ill-health) and had not reached your scheme's normal pension age when your employer went bust, then you will generally receive 90% compensation based on what your pension was worth at the time. The annual compensation you will receive is capped at a certain level. **The cap at age 65 is, from 1 April 2016, £37,420.42 (this equates to £33,678.38 when the 90% level is applied) per year.**

- When you reach your scheme's normal retirement age, they will pay you compensation based on the 90 per cent level subject to a cap, as described above.

With all of the above, payments relating to pensionable service from 5 April 1997 will then rise in line with inflation each year, subject to a maximum of 2.5 per cent a year. Payments relating to service before that date will not increase.

What the Pension Protection Fund DOESN'T offer:

Flexible draw down, self-management, the ability to transfer.

For all of you that are members of a Company Pension scheme , if you haven't done so already , it is time to find out if the pension scheme is fully funded, that means it has enough money to cover its pension liabilities or if it is in deficit. If it is in deficit you need to know by how much, what the Company plans are to rectify this and most importantly how stable/safe is the company you work or used to work for. Is there a real possibility that company could fail? If so, I would seriously consider transferring your pension out of the scheme if that is allowed.

A small mention of BREXIT

As we embark upon the most important decision of my generation since Britain entered the common market in 1973 (I was 9 years old so don't blame me !), I have my own thoughts and views and hopes for the outcome but I believe that whatever the UK decides to do, we will do well in any case.

We do have a couple of seminars coming up on 24th May in Quesada (The Club) and the 27th May in La Marina at the Bowling Club and we can all have a bit of fun talking more about the brexit as there will only be a month to go before the referendum.

What will be the outcome of the vote viewing it from today's position (29th April)?

So far there seems to be a serious lack of interest from the British public as the Scottish vote of independence last year seemed to attract much more fervour and animation from all Brits, not just Scottish folk.

Here are some polls over the last few years and it makes interesting reading:

Date	Leave EU	Stay in EU	Undecided
26/04/16	46%	44%	10%
20/04/15	35%	45%	20%
25/04/14	37%	40%	23%
08/04/13	43%	36%	21%

It turns out that older people tend to wish to leave the EU and younger people wish to stay. And as human beings we are all afraid of change to some extent and will revert to "better the devil you know". Being in the EU is all younger people have ever known. But what if I told you that the combination of apathy, mixed with the excitement and chatter that goes with Glastonbury Music Festival, which is a our biggest annual music event and is broadcast on TV for 3 days, could make the younger people give the voting booths a swerve. Stranger things have happened !

What I do know is that the markets will become unstable and this will present huge opportunities. I certainly will be adding to my investment if the unit prices dip, as I expect.

We are here to help, so to arrange an independent, professional and impartial consultation please contact me by email dave.diggle@blacktowerfm.com or call me on **615 607 278**.

Blacktower Financial Management has been established for 30 years and have worked with clients through the good and the bad times, offering sound independent advice.

We are here to help you find the right solution to make your money work for YOU, to arrange an independent, professional and impartial consultation please contact me by email dave.diggle@blacktowerfm.com or call me on 615 607 278.

If you live in the Costa Blanca South as I do, it maybe more convenient for us to meet at your home or in a neutral place rather than going to our offices in Javea. It's your choice !

Dave Diggle C.A.T., DipFA, (based in Costa Blanca South but covering all areas, Main office: Edificio Palau III, local 7, Javea 03730, Alicante, Spain)

The above information was correct at the time of preparation and does not constitute investment advice and you should seek advice from a professional adviser before embarking on any financial planning activity.



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UK PENSIONS UPDATE – March 2016

By David Sawyer – Independent Financial Consultant at DS & SJ Consultancy Ltd, UK.



Lifetime ISA – Is This a Toe in the Water for Future Pensions Tax Reform

This years Budget saw Chancellor introduced the new Lifetime ISA to be launched in April 2017 it will allow those aged under 40 to invest in either a cash or stocks and shares Lifetime ISA as part of the new £20,000 per annum overall ISA limit.

Based on savings of up to £4,000 p.a. the governments add an extra 25% (up to age 50) of the amount saved with the benefit only available to buy a house (up to £450,000) or withdrawal after age 60. Early encashment would lose the government's bonus and be subject to a 5% charge.

Added to the above we should not forget that from April of this year:

- Basic rate taxpayers - the first £1,000 of interest tax-free and the first £5000 of dividend –free of tax credits in each tax year.
- Higher rate taxpayers £500 of interest tax-free with additional rate taxpayers not receiving an allowance. As well as the £5000 tax-free dividend interest.

Our conclusion is that given the above together with, AE, the Lifetime ISA and the future combined ISA increase to £20,000 per annum from April 2017 there are few excuses for not making effective retirement planning.

Group Life Assurance – Beware of the Lifetime Allowance

The pensions Lifetime Allowance has now reduced from £1.25ml last tax year to £1ml this. High earners with Death in Service cover should be aware that it will aggregate with their pension pots and could cause an unwanted tax liability. There are alternatives which can be considered.

Protection of Overseas Employees via UK Schemes.

UK employers with overseas workers can provide Death in Service cover through the same scheme rather than establishing separate arrangements.

Pension Freedom – Transfers and Encashment – For those over 55

Based on the ABI statistics as at March 2016 small pots are generally being taken as lump sums with an average pay out of £14,800. Larger pots are still being used to access regular retirement income with an average fund value of £59,600. The purchase of annuities has declined with more seeking income drawdown from their invested pension fund.

The perceived necessity to consolidate pension funds for the best return has lessened as each plan can be used for different purposes. It is important however to first check the costs involved.

DS & SJ Consultancy Ltd

March 2016

*The information provided in this document is for information purposes only and does not represent any form of recommendation. It is based on our understanding of the current legislation and interpretation cover the subjects included, which may change from time to time. This document is for information basis only and does not represent any form or recommendation or advice.
E&O.E*

**The above is an abbreviated article that Mr Sawyer has extracted from their DS & SJ Consultancy Ltd full report on UK PENSIONS please, ask for the mentioned full report using our contact form here:*

<http://www.rhv-lawfirm.com/contactar.html>

DEMOLITION OF A HOUSE IN PILAR DE LA HORADADA.

By María Navarro. Lawyer.



Recently the Superior Court in Valencia has ordered the demolition of a country side house built on rustic soil (agricultural land) in 2001 in Pilar de la Horadada.

Sadly, this is not unusual as building in rustic soil is in general forbidden, so normally if a house or any building is built on this type of soil then it is **in risk to be demolished** by the Authorities.

But this is not always as hard as it sounds, because in the Land Law there are some exceptions that allow building a house out of the urban soil of the City, called rustic land or non-urban land. These same rules will also **allow us to regularize** some of these houses.

Land Laws **requirements** for country homes are:

- Exceptionally, it is allowed to build on plots of uninterrupted perimeter with a minimum size of 10000m². Local General Plans can increase the minimum plot size required.
- The area occupied by the building shall never exceed the two percent of the plot of land size. Therefore, a country house can have a maximum 200 m². The remaining surface of the plot shall maintain its own features: natural features or cultivation.
- The plot of land where the house is about to be built can not be located in an area of special protection.
- Building license issued by the local Town-Hall will be required.
- A proper report from an architect will be compulsory to build.

Raymundo and Hopman has fought and won many of these kinds of land cases, so, if you want to build a country house please contact us and we will help you with all the requirements. Also, if you have a country house already built in rustic land then we can inform you about its possibilities for legalization and to deal with it for you, for your convenience.

I can be contacted at maria@rhv-lawfirm.com

Maria Navarro – Lawyer & Barrister at Raymundo & Hopman Abogados.

INTERNATIONAL DRIVING LICENSE

By Oana Dragoi. Lawyer.



You may need an International Driving license to drive outside the EU/EEA.

The international driving license is required to drive temporarily in the territory of countries that are not members of the European Union and that have not adopted the model of license provided in the Geneva or Vienna Conventions.

This license is valid for 1 year, and it is not valid for driving in the country that issues it (in our case, in Spain)

From the website of the Spanish authorities we have extracted the following information for its application:

Application form: official form available at the Traffic Department offices and on the traffic authorities' website (www.dgt.es).

Application fee (10,10 €): You can use one of these ways of payment: a) online www.dgt.es , b) by credit/debit card at the Traffic Department offices, c) by direct debit from a bank account, or, d) paying cash at the Bank presenting the form 791 available at the Traffic offices and online on www.dgt.es.

Together with the Application and evidence of the fee payment you have to prove your identity and residence:

- ID Card or PASSPORT: in force and original.
- RESIDENCE CERTIFICATE for EU nationals: in force and original.
- RESIDENCE AUTHORIZATION for non-EU nationals: in force and original.
- passport Photograph.
- Photocopy of your national DRIVING LICENCE that should be in force.

If any doubt please, contact me and I will help you, my email is oana@rhv-lawfirm.com.

DISSOLUTION OF PROPERTY JOINT OWNERSHIP (Part I)

By Connie Raymundo- (Article published in CBNews – March 2016)



These days it is usual that married couples or partners have joint ownership of property, ie they own 50% each. Recently, our Firm has received many consultations related to the impending collapse or disintegration of this legal co-ownership, most often when divorcing (although this is not the only situation where this can occur).

As mentioned above, this situation is usual by example; when due to divorce agreement one party should retain the total ownership of the house (usually compensating the other spouse with money or other assets), or, when one owner wants to retain the house and the other, for any different reasons, do not longer want to retain his/her share.

In Spain, the termination of a property co-ownership is regulated in our Civil Act and, briefly, provides that **one co-owner can not force another to continue with or maintain the joint ownership against their will**. In this case, should one of the co-owners decide to terminate the co-ownership, unless the house can be perfectly divided in two without losing any value then, and in accordance with the law, this co-ownership agreement must be terminated.

In view of the above, and as termination of the co-ownership can not be prevented by any means, by far the best move will be for the people involved to agree to terminate the agreement amicably; it is a simple process where the costs and taxes involved will be much lower than with the alternative option, which would be a Court Lawsuit.

The amicable termination of a co-ownership is known as “extinción de condominio”. The joint owners have to appear before the Notary and sign a deed passing one party’s 50% over to the other; the deeds will then be recorded at Land Registry.

The costs and fees involved are those for the Notary and Land Registry, plus only 1,5 % for the AJD tax (in comparison, a property sale attracts a 10% ITP tax) and, depending on the Town Hall, a local tax known as plus-valia may be also charged to the partner that is passing his/her share to the other owner (as in a sale, is the vendor obligation). As always, we do strongly recommend adding Lawyers to the equation in order to guarantee a smooth and trouble-free completion of the various legal formalities.

However, the above mentioned process becomes a little more complicated when the house is mortgaged. In this case, the Bank has to participate in the termination of co-ownership as the person keeping the house will have to ask for a continuance of the other owner's part of the mortgage, legally called "novación", and of course, the Bank has to accept this request. In this case, both parties will have to face the additional costs of the mortgage continuance deeds.

In our next article we will outline the non-amicable termination of co-ownership in Court, but in the meantime should any reader have an immediate query, do contact us and we will be pleased to give you a free clarification.

Connie Raymundo, Lawyer and Barrister at Raymundo & Hopman Abogados, registration nº ICALI 5936.

And if you are **selling or buying** please, visit our website for some **basic guidelines** on these processes. You can also contact us, we will provide you with a free estimate of costs for the conveyancing services with no obligation.

BUY SAFE or pasting the link in your browser:

<http://www.rhv-lawfirm.com/CONVEYANCING-BUYING.html>

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<http://www.rhv-lawfirm.com/CONVEYANCING-SELLING.html>

Some ideas on how to fix the price of your home for sale.

By Angie Castello. Estate Agent at Seagull Villas.



When we sell a house many factors must be considered; where to advertise the home, how to introduce the home with a brilliant description with nice representative pictures, etc, but the most important factor for a fast sale is to set the correct “price to sell”. This tends to be the most luring feature for clients .

A home that has not been sold after being 10 months on the market loses interest for a potential buyer. Most likely, you will have to revise the price downwards when could have sold it before if you had known from the beginning to fix the right price.

But, how to know which is the right price? The price has to be fair but not as low as it could be depreciating the house.

A good search through the many internet portals for similar features houses would be a good start. Location and distance to amenities will be also having impact on the price.

And once you have decided the price then, **ask yourself, would I want to pay a price like this for a house like this?**

Try to put aside any sentimental or personal feelings and answer the question honestly. It is not easy, so a good idea would be to ask the honest opinion of friends without a stake in the house or a professional estate agent who should know the range of prices depending on features, size, location, condition, etc.

If the above steps are difficult to take on your own in order to establish the right “price to sell”, you can always contact our team of professionals who will consider all factors that would have an influence on the value of your property and prepare a detailed survey.

Our team will be pleased to help you (info@seagullvillas.com).

See our deal of the month in the following page:

DEAL OF THE MONTH!

And if you are thinking about buying a new house, we would like to present to you our Deal of the Month:

EL CAMPELLO (north area) – WALKING DISTANCE TO SEA!!!

235.000 euro – Unbeatable price!!!

Imagine you sitting by the pool or enjoying a tea in its lovely and lighty lounge which was tastefully built with its ceiling wooden beams.

You can walk to the beautiful beaches, enjoying quietness, and to have sun baths or to swim in their crystalline waters.



Private and wonderful garden.
Different sitting areas.
Terrace oriented to South.
Opened views.
Excellent qualities.
Immaculate condition.
Residential area.
3 cars parking.
Storage-room.

120 m2 house.
890 m2 plot.
3 bedrooms
2 bathrooms
Air conditioning
Heating
Chimney
Barbecue



Do not loose this opportunity if you are planning to buy a new home!

Contact us if you want to visit it! info@seagullvillas.com or, you can see more properties at: www.seagullvillas.com

And remember, **we need houses for sale!** Contact us with your telephone number and we will call you back.

Ground clauses: Brussels' decision on Banks repayment to customers.

By Roberto Fernández



Do you have a mortgage? Check this out!

A mortgage ground clause is a clause that Banks were used to include in variable rate mortgage deeds fixing the lowest interest they were prepared to apply on payment even if the calculations of the rates agreed by the customer were lower than this interest fixed in the ground clause.

On May 2013, our Supreme Court decided against three Banks that had to return the money obtained by the means of this clause to customers, but, only from the date of the Court Decision.

Recently, another Spanish Superior Court has extended the Supreme Court decision to all the Spanish Banks (40).

The question was whether the Banks should be repaying the money collected from May 2013 or, if they should be repaying to every client all the money collected by the means of this clause from 2009 when Banks started to apply these ground clauses, or, from the date that every individual client signed their deeds if that happened after 2009 (and before 2013).

A few days ago, the TEU (Court of Justice of the European Union) discussed the retroactivity in the elimination of mortgage's ground clauses in Spain, so Spanish banks may have to repay nearly 10.000 million euros to the mortgage holders and also leave to win 6.000 million over the next few years

Anyway, whatever the decision of Luxembourg, the judgment will not be public until, at least, 6 months to see if this ground clauses should be reimbursed since 2009, or continue as before, in 2013.

Contact me at Robert@rhv-lawfirm.com in case of any doubt, or, if you want to get your money unfairly paid to the Bank back, I will be pleased to help you.

Roberto Fernández, Lawyer at Raymundo & Hopman Abogados

Q & A MEETINGS

DO YOU HAVE ANY QUESTIONS about **BREXIT**, Investments, Inheritance, Property, Conveyancing, Taxes? If positive, **join us!**



Our Firm has been invited to talk in two Q&A Meetings about the possible consequences of BREXIT in Spain for UK Expats and other legal matters of interest.

These **Q&A MEETINGS** will take place in the following locations and dates:

THE CLUB, QUESADA – May 24th – start 10:00 a.m.

LA MARINA SPORT COMPLEX – May 27th – start 10:00 a.m.

Experts from four different Companies **will answer every question.**

Reserve your place today here:

<http://www.rhv-lawfirm.com/QA-MEETINGS.html>

Or emailing to gameeting2016@gmail.com

Free coffee/tea and cakes, gifts, charity raffles, and more... (reservation required).

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Our Staff:



Lawyers, Barristers, Tax Advisors, Economists, Architects, Financial Advisors, Medical Experts, Translators and Estate Experts.

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