

PROPERTY IN SPAIN

Buying or selling a house: Who is who?



By Connie Raymundo

Due to the bureaucracy of the Spanish system, several different professionals are (or should be) involved when property is being purchased; an estate agent, a notary, a lawyer and probably a bank (if the purchaser needs funding). However, they all must stay within their own specialist field and not intrude into a profession they are not qualified to practise; this is not only a legal offence but usually ends up with the purchaser and/or vendor paying the consequences.

Briefly, their different roles are as follows:

The estate agent: they will offer the houses for sale; will liaise with both vendors and purchasers to negotiate a satisfactory settlement regarding price, completion date for signing of the title deeds etc; will collect the relevant documentation from the

vendor; should definitely request the house land registry certificate where any charges against the property would be shown; will maybe prepare a private sale contract (which should be drawn up, or at least reviewed, by a qualified lawyer); and will accompany the purchaser and vendor to the Notary for translation.

The bank: If a purchaser asks for a mortgage, then the bank will check that the house has no charges or encumbrances, will agree with the buyer the conditions of the mortgage, will prepare the mortgage pre-contracts and deeds, and will accompany the buyer to the notary to sign the mortgage deeds.

The notary: As soon as notaries receive the relevant documentation from the vendors, the purchasers and the bank, they will check that every document is legally correct and will then prepare the formal title deeds that vendors and purchasers must sign in their presence. For

an additional fee, they will also take the deeds to the land registry.

So, do I actually need a lawyer? Reading the above, it may seem that all the various aspects of the sale/purchase process are covered; well, be aware that they most definitely are not.

Only a qualified lawyer (a conveyancing lawyer for houses in towns or urbanisations, or a land law expert for country and rural houses) is properly equipped to check and confirm that the house complies with all legal requirements, and by doing this will be able to protect both buyer and seller from a host of potential legal problems in the future and save them from all the associated trouble, stress and financial cost, which can be significant.

The lawyer: Before any contract is signed or monies exchanged, the lawyer will check if the house complies with all the land and building laws, if the house has had or still has any planning infringement files or fines pending, if there are any legal restrictions or development plans that could be affecting the

house now or in the future, if the house description matches in all the registry documents involved, if the contracts include all the legal clauses necessary for the protection of the purchasers/vendors rights (and monies), and much more.

For further information about the purchase/sale process, Raymundo & Hopman Abogados have prepared two useful guides for purchasers and vendors; both can be found on our website www.rhv-lawfirm.com.

And please remember; in the same way that all the above mentioned professionals should be involved in the purchase/sale process to completely guarantee and safeguard the parties' legal rights, seller and purchaser have different interests to each other and should never use the same legal adviser or conveyancing expert.

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