



Del Río
— *Abogados* —

BUYING
GUIDE





Main steps of the purchase process in Spain

DEL RIO ABOGADOS, a highly renowned Law Firm in the Real Estate field, acts as an independent legal assistant for the client and only collaborates with the most trustworthy Real Estate Agencies in Spain.

When the client has decided which property they wish to acquire, we begin to carry out **the following steps of the buying process**:

1. THE DEPOSIT

In order to take the property out of the market, the client has to **pay a deposit** of approximately 6,000 Euros (this amount can vary depending on the property and on the real estate).

In accordance to the aforementioned, in order to **protect our clients' interests**, we always recommend them to transfer

said amount directly to our clients' bank account, until we verify that all the details related to the legal situation of the property are in order.

2. DUE DILIGENCE

Once we have received the deposit, we request the Real Estate Agency to provide us with the **contact details of the vendors/ vendors' lawyer** to notify them our representation and to request from them the following documentation:

- » Public Title Deed of Purchase;
- » Invoices corresponding to the Municipality Tax and Waste Collection Tax;
- » Electricity and Water Supply invoices;
- » Contact details of the Community of Property Owners.

When we receive the aforementioned documentation, we proceed to carry out our main task, which is the **Due Diligence** by which we verify all the aspects related to the property, which are:

- » **Ownership** (if the vendor is the registered owner of the property);
- » **Possible debts** the property may have with the Town Hall, Community of Property Owners or the utility supply contracts (the property will be sold up to date in payments and therefore we verify previously if the property is up to date or not);
- » **Charges or encumbrances currently levying the property** (the property will be sold free of charges and encumbrances and therefore we have to be sure if there are existing debts to cancel them prior to completion);
- » **Urban situation** (whether the property has the corresponding licenses granted by the Town Hall and complies with the urban law);
- » **Utility supply contracts** (whether the property has electricity and water supplies).

3. PRIVATE CONTRACTS

Once we complete our **Due Diligence**, if everything is in order, we will proceed with the **preparation of the private contract** for the payment of the amount agreed with the vendors.

The private contract is a very important step in every purchase, as it will set the **conditions of the purchase** therefore, we carry out all the necessary negotiations with the vendors in order to **defend your interests**.

4. PUBLIC DEED OF PURCHASE

After the signing of the private contract, in an estimated period of 3-4 weeks, depending on the conditions agreed with the vendors, **the title deed will be signed**.

You can attend in person with our assistance to sign the deeds or we can do it on your behalf in case you grant us power of attorney, what we highly recommend to take care of the **complete purchase process**.

5. TAXES AND COMMUNITY FEES

Finally, our work does not end with the public deed as we also can **assist our clients by opening a bank account**, arranging the water and electricity supply contracts as well as direct debiting to the opened bank account the utility supplies.

We also arrange the municipality tax, the bins and waste collection and the **Community of Property Owners fees** to be paid by direct debit.

6. OTHER ARRANGEMENTS

We also arrange to obtain your **NIE number** (which is necessary to purchase a property in Spain) and assist and prepare a **Power of Attorney** (in Spain or abroad) in the case that we sign on your behalf.

Formalities

NIE

The Foreigners' Identification Number (**NIE**) is a personal, fixed and unique number that is used to identify foreign taxable subjects who, logically, do not have the tax identification document that all Spanish people have. All foreigners with economic, professional or social interests in Spain are **under obligation to apply for a NIE** before the relevant body of the Spanish Ministerio del Interior (**Home Office**).

The **NIE** must figure on all public documents that the interested party signs or which are issued in Spain, so the client **will have to have this number before signing the deed of purchase**.

POA

Throughout the **signing process at the notary's office**, our clients are always accompanied by their lawyer, who oversees the documentation, checks that everything is in order, and acts as an interpreter. If there are any professional or personal

reasons that prevent the clients from going to the notary's office on the indicated date, we will **attend on their behalf to sign the deed**. In this case, the clients would need to provide us with a **power of attorney beforehand**.

Taxes & Costs

TAXES

In the case that you are a purchaser, you have to bear in mind that there are different taxes that you will have to pay. The said taxes are three and are described in following:

- » The taxes derived from the purchase;
- » The taxes derived in the case that you are the owner of a property in Spain;
- » The taxes derived from being a non-resident in Spain.

TAXES DERIVED FROM THE PURCHASE:

The tax to be paid for purchasing depends on if you purchase from the building developer or if it is a resale.

A.1. When purchasing directly from the building developer, purchasers will have to pay VAT and Stamp duty.

Therefore, the applicable VAT is the following:

- » Dwelling-houses _____ **10%**
- » Non-built plots of land _____ **21%**
- » Commercial premises _____ **21%**
- » Parking spaces and storerooms _____ **21% or 10%**

In relation to the **acquisition of garage parking spaces and storerooms**, in the case that they are purchased together with a dwelling-house (with a maximum of two per public deed, the VAT to be paid will be 10%; however, in case that they are purchased separately, the VAT will be 21%.

Moreover, Stamp duty to be paid is 1.5%.

A.2. When purchasing in a resale, the purchasers shall pay Transfer Tax in different percentages, depending on the purchase price, as follows:

- » 8% for the first **€400,000.00**
- » 9% for the amount between **€400,000.01** and **€700,000.00**
- » 10% from **€700,000.01** onwards

As informed previously, there will be a paid **tax for parking spaces and storage rooms** when they are bought separately from dwellings, or when there are more than two in the public

deed. Therefore the tax rate is the following, according to the scale detailed below:

- » 8% for the first **€30,000**
- » 9% for the amount between **€30,000.01** and **€50,000**
- » 10% from **€50,000.01** onwards

A.3. It is also very important to bear in mind that in the event that you purchase your property with a Spanish mortgage you will also have to pay 1,5% of Stamp Duty on the mortgage liability.

TAXES DERIVED FROM BEING AN OWNER IN SPAIN

A.1. LOCAL RATES:

Called the **I.B.I.** – Impuesto sobre Bienes Inmuebles - (council tax). This is a **municipal tax** paid annually to the Town Hall. The IBI receipt will show the valor catastral (the ratable value for your property). This figure is very important since various taxes are based on it. This tax (I.B.I.) is for **municipal roads, street lighting, schools, hospitals**, etc. The I.B.I. receipt can be paid by direct debit. When you sell your property you are required to present the latest IBI receipt paid.

A.2. WEALTH TAX:

This tax has been abolished in 2008 and was temporarily reintroduced for 2011 (payable in 2012), 2012 (payable in 2013) and 2013 (payable in 2014) and **will only affect both residents and non-residents with assets in Spain over € 700.000.**

TAXES DERIVED FROM BEING A NON-RESIDENT IN SPAIN

In the event that you stay **less than 183 days per year in Spain**, as an owner of an asset in Spain, you will be considered by the Tax Office as a **non-resident** in Spain and therefore you will have to submit your corresponding tax declaration every year.

The tax to be paid depends on the **specific value of each property**. For this reason, in the case that you would like further information concerning your specific situation, please **feel free to request information to us**.

COSTS

Notwithstanding the aforementioned, a purchaser has to bear in mind that they will have to **assume other costs related to the purchase** either purchasing from the developer or in a resale, which are the following:

- » **1%** approximately for **Notary Public and the Land Registry fees**;
- » An **extra 1%** for the **Notary Public and the Land Registry** in the case the purchase is carried out with a Spanish mortgage;
- » **1%** for the **lawyer's fees plus VAT**.

CAPITAL GAINS TAX

The capitals gains paid on the sale of the real estate are **subject to taxation**. That is, the difference between the original

purchase cost and the sale price is taxable. The taxation rate that is applied to this **capital gain amounts to 19%**.

Mortgages

If you want to purchase a property in Spain and you would like to cover your acquisition with external funds, the solution may be to **get financing from a credit institution**.

Before choosing which type of mortgage you need and at which financial institution you wish to apply, you should be aware that, in Spain: there are **banks and savings banks; fixed**

and variable interest mortgages; mortgages with interest-only conditions, in which you only pay interest for a certain period of time, without repaying the capital; **flexible and fixed-rate mortgages**. So, depending on your debt capacity and your requirements, you will be more interested in one kind or another.

Required documents for mortgage application in Spain:

a) Regarding the applicant:

- » Bank application form, duly completed
- » Copy of passport
- » Copy of N.I.E.
- » 3 most recent payslips (for those employed by others)
- » Auditor's report on annual income and the company's annual accounts (for self-employed)
- » Most recent income tax return
- » Bank statements from the previous two months
- » Recent credit report (Experian)

b) Regarding the property:

- » Copy of the deed
- » Copy of the private purchase-sale contract
- » Nota Simple (extract from the Property Register)
- » Proof of down-payments made to date

Spanish Residency & Golden Visa

NON-LUCRATIVE

This visa allows you to reside in Spain without engaging in any type of lucrative activities. The process may take between **2 to 4 months** from the day all documents are presented. Once your visa is authorized, we will contact you by email or mail,

and you (and all your family members applying for a visa) will have to come in person to this **Consulate General** within a month with your **passport** and an **itinerary of flight** to Spain to obtain the visa.

GOLDEN VISA

According to the **new Spanish law of 14/2013**, all non-UE Residents will be able to apply and obtain a residency Visa or a Residency Permit if the applicant makes an investment in Spain on a property (there are also other kind of investments) for a **minimum price of 500.000 €**.

The property must be **free of charges** (for example no mortgages) and the purchase will give them the right to apply for an initial Residency Visa of 1 year, being possible to enter

and leave the country without limits during this **period of 1 year**.

After the first period of 1 year, and only if the investor has travelled to Spain at least once during this period, it will be possible to apply for a Residence Permit which will be granted **for a period of 2 years**. (the investor will be able to apply at the same time and for the same investment for the wife/husband and children's residency permits)