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ADVISERS

Buying a property in Spain



ÁBACO CONVEYANCING

HANBOOK SERIES

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Buying a property in Spain

Buying a property in Spain is an aspiration for many. The climate and lifestyle are just two of the reasons that every year people continue to buy Spanish property. It is true that there have been some dips in confidence. During the boom years not everyone behaved as they should and unfortunately, there have been people who took advantage of foreigners' eagerness to buy.

Since then, procedures are tighter and people are wiser. The recession has weaned away most of those with a less-than pristine reputation. It has also led to a vast reduction in the price of Spanish property. Whereas in 2004 you couldn't afford to wait around in case you were gazumped, in 2019, it's still a buyer's market.

We are now seeing a more buoyant foreign

market in comparison to that of Spanish purchasers. In 2017 the number of overall house sales to foreigners was 13.11% in comparison to 4.24% of overall sales in 2009. The nationalities buying most frequently were British (15.01%), French (8.64%), German (7.77%) Belgium (6.39%), Swedish (6.38%) and Italian (5.77%).

It doesn't mean to say that we will ever see a return to the purchasing frenzy of 2004. However, it does indicate a steady flow of interest in Spanish property, at least from abroad.

This handbook is intended for those people considering buying a property in Spain. It takes you right through the conveyancing process and informs you about what to expect and what to avoid.



How do you get started?

Many people begin their property search as holiday makers themselves. Perhaps they have visited a part of Spain a few times and have grown to love it. Perhaps they have relatives who already live there.

If this is the case for you, then you probably already have a good idea about where to start looking. With the internet there is no end of online methods of searching for a property. Of course, you will want to back this online search with on the ground research. If you already have family or friends in Spain then you have an excellent starting point for finding the area and property that might be right for you.

In other cases there may be no tie to a particular area but a general wish to buy property somewhere warm and sunny. Spain, remains a popular destination. For those living in Europe, it is easily accessible and the weather is predictable. It's a large

country and there is no shortage of variation in landscape and leisure activities. You take your pick.

Again, research is vital. Reading books and searching the internet will give you some ideas. However, it is also beneficial if you can find someone who has made a similar decision and can give you some advice.

An increasingly popular alternative is to rent somewhere first in the area that you have in mind. Even renting for a two-week period as a holiday let can provide you with a good understanding of how it might feel to live there and how accessible the services are that you habitually use.

Whatever you do, make sure that you have costed out exactly how much you can afford, that you have an idea of what you might be able to purchase in the area that you are considering and that you know what your

limit is. Purchasing a property does not only involve the cost of the house itself. As in your home country, there are a number of supplementary costs that you must budget for. We advise that you should add around 12%-15% to the price of the property as a rough guide.

So, for example if your property costs 100,000€ then you will need at least 112,000€ to account for property taxes, solicitors' fees, notary and Land Registry fees and possibly the acquisition of an NIE and/ or power of attorney. In addition, you need to allow for

more if you need to furnish your property or pay for removal costs.

Another important consideration is how much it will take to maintain your property. Once you are the proud owner of a house in Spain, there will continue to be annual outgoings. Make sure that you make allowances for these.

Assuming that you have done your calculations and are confident that owning a property in Spain is well within your budget, then you can take the next step forward.

*If you already have family or friends in Spain,
then you have an excellent starting point.*



Selecting your property

Location is a very important factor when you make your choice. You should ask yourself:

- What is my real reason for buying a house in Spain and how does this influence my choice of location?
- What are my three main priorities in terms of location?
- Do I want to live out in the country, in an urbanisation or somewhere in between?
- Is it important that I live amongst Spanish speakers?
- How might my needs change in ten years time?
- What facilities do I need to be close to for health or other practical reasons?

Once you have identified approximately the area you think you would like to live in then you can focus in on properties.

You will need to make some decisions about:

- Whether you prefer new or rebuild
- Whether you prefer a house or apartment
- The outdoor facilities you need
- Whether you prefer a refurbished property or one that you can refurbish yourself

Of course, there will also be other issues such as size, number of storeys and the aspect of the property. A lot will depend upon your short term and long term intentions. If you are a non-resident then having lots of outside space that needs maintenance is a

consideration; a swimming pool requires care throughout the year.

However, if you are planning to be a resident either now or in the future then places to store belongings and 'extras', more space for normal day-to-day living and perhaps even a garage or carport become more important.

You will want to consider the immediate environment you wish to live in. Do you like to be in a busy, possibly noisy, environment

where there is always someone to pass the time of day with? Or do you prefer to be undisturbed and more isolated?

Once you have found a house you are interested in, then visits are crucial. Ideally you should try and visit a property at different times of the day and on different days of the week. The decision to buy a house is one of the biggest that we make but is often made on the spur of the moment and with relatively little research.

Ideally you should try and visit a property at different times of the day and on different days of the week



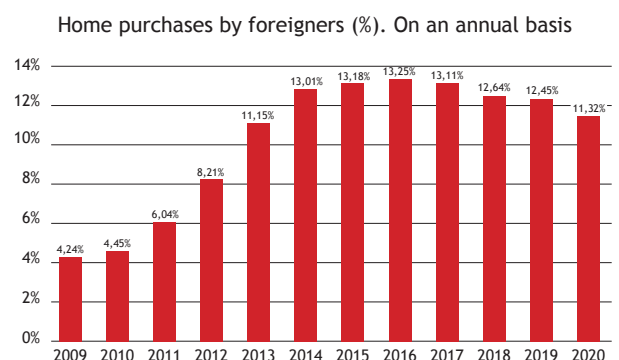
Where are foreigners buying in Spain?

Statistics from the year 2020 show that foreigners are still keen to buy Spanish property continuing the trends from previous years. Which European nationalities are heading the tables, what do they prefer and where?

The popularity of Spanish property amongst foreigners had grown over decades. The latest statistics show that although the percentage is down from the peak we were seeing in 2017 (13.11%) it is still a buoyant market. In 2019 12.61% of property purchases in Spain were made by foreigners. The year 2020 saw a further drop to 11.32% largely as a result of the movement restrictions applied during the health crisis.

Factors such as the types of property - whether it is used or new and the size of it, are big indicators of the nationality of purchasers.

What records are currently unable to specify is the number who are residents and those who are non-residents. Altogether nineteen nationalities are indicated in the tables, but we shall focus on those of European origin.



OVERALL TRENDS

In 2020 the British continued to be the most

frequent Spanish property buyers. They bought 13.05% of the total number of foreign purchases, although this was still down from the 2019 figure of 13.94%. The decrease continued the trend we've seen in previous years, although the reduction was in fact, less.

In second place were French buyers. They bought 8.16% of the properties purchased by foreigners. This represented an increase from 7.84% in 2019. Next came German buyers with 7.75%, again a figure that was up on the previous year (7.12%). Other notable European buyers included Belgians with a 6.39% total and Italians who purchased 5.08%.

Registered house sales to buyer's nationality, 2020

Nationality	%	% of the total number of foreign buyers
United Kingdom	1.48%	13.05%
France	0.92%	8.16%
Germany	0.88%	7.75%
Morocco	0.76%	6.74%
Belgium	0.72%	6.39%
Romania	0.63%	5.53%
Italy	0.58%	5.08%
Sweden	0.52%	4.63%
Netherlands	0.38%	3.32%
China	0.35%	3.08%
Russia	0.28%	2.51%
Poland	0.17%	1.52%
Ukraine	0.16%	1.42%
Noruega	0.16%	1.40%
Bulgaria	0.13%	1.15%
Ireland	0.13%	1.11%
Denmark	0.12%	1.05%
Algeria	0.11%	0.98%
Switzerland	0.10%	0.90%
Other	2.74%	24.23%
FOREIGNERS	11.32%	100.00%
Spaniards	88.68%	
TOTAL	100.00%	

NEW OR USED

It's also worth noting the type of property bought by different nationalities. The purchase of new property was particularly

popular amongst Belgian purchasers with 33.2% of their homes being brand new compared to 10.11% of French acquisitions.

Also more likely to buy new were the Norwegians with 32.41%, the Swedish with 26.98% followed by the Dutch (23.73%). A total of 17.11% of German purchases were new and buyers from the UK were less likely to opt for brand new property with only 14.74% new as opposed to 85.26% resale.

Registered house sales to buyer's nationality, 2020

Nationality	New Construction	Existing houses
United Kingdom	14.74%	85.26%
France	10.11%	89.89%
Germany	17.11%	82.89%
Morocco	10.47%	89.53%
Belgium	33.20%	66.80%
Romania	14.88%	85.12%
Italy	14.87%	85.13%
Sweden	26.98%	73.02%
Netherlands	23.73%	76.27%
China	17.98%	82.02%
Russia	20.29%	79.71%
Poland	22.44%	77.56%
Ukraine	20.55%	79.45%
Noruega	32.41%	67.59%
Bulgaria	15.20%	84.80%
Ireland	15.63%	84.38%
Denmark	21.60%	78.40%
Algeria	6.18%	93.82%
Switzerland	18.18%	81.82%
Other	17.38%	82.62%
FOREIGNERS	17.68%	82.32%
Spaniards	20.15%	79.85%
TOTAL	19.87%	80.13%

BIG OR SMALL

When it comes to the size of property, it's clear that the British prefer to buy big with 60.59% opting for property over 80 m2. However, the Danish and Dutch were the two European nationalities most likely to opt for a larger property (68.53% and 68% respectively). Smaller properties tended to be bought by the French and Italians (49.57% and 39.60%) with German and Belgian purchasers being

Registered sales figures of houses by nationality of the buyer and surface area, 2020

Nationality	< 40 m2	40/60 m2	60/80 m2	80/100 m2	> 100 m2
United Kingdom	3.39%	13.16%	22.85%	18.42%	42.17%
France	7.48%	19.65%	23.30%	14.99%	34.58%
Germany	5.93%	16.16%	20.71%	17.06%	40.13%
Morocco	1.87%	11.53%	30.25%	27.74%	28.61%
Belgium	3.04%	12.77%	27.22%	19.57%	37.40%
Romania	1.65%	11.76%	26.66%	26.70%	33.24%
Italy	10.10%	24.66%	25.64%	16.74%	22.86%
Sweden	4.89%	17.11%	25.33%	18.52%	34.16%
Netherlands	3.21%	9.88%	18.91%	19.90%	48.10%
China	1.41%	10.85%	27.11%	23.10%	37.54%
Russia	6.91%	16.13%	24.53%	18.57%	32.04%
Poland	6.13%	21.94%	31.05%	14.10%	26.78%
Ukraine	1.37%	17.38%	29.12%	24.54%	27.59%
Noruega	4.21%	9.83%	24.96%	22.62%	38.38%
Bulgaria	2.63%	14.10%	27.44%	27.07%	28.76%
Ireland	4.71%	15.69%	28.04%	17.45%	34.12%
Denmark	4.35%	7.25%	19.88%	22.57%	45.96%
Algeria	3.09%	16.78%	36.20%	24.72%	19.21%
Switzerland	4.34%	9.64%	22.17%	17.11%	46.75%
Other	3.97%	14.33%	23.85%	21.23%	36.61%
FOREIGNERS	4.32%	14.83%	24.70%	20.26%	35.90%
Spaniards	2.85%	13.36%	23.55%	22.38%	37.86%
TOTAL	3.02%	13.53%	23.68%	22.14%	37.64%

more or less split with 57.19% and 56.68% buying property of over 80 m2.

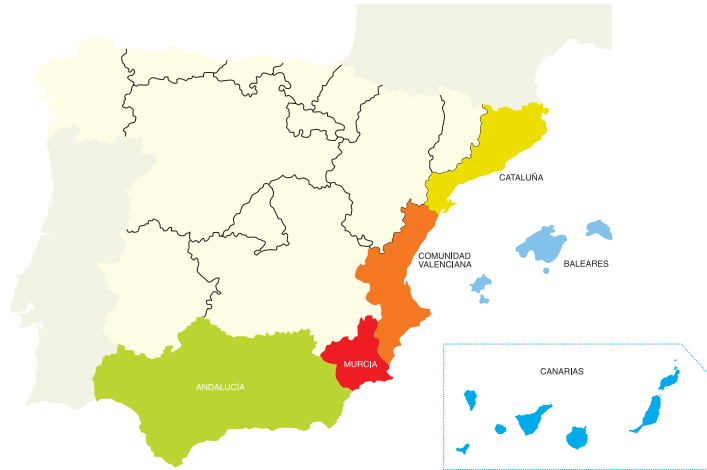
WHICH REGION?

Of course, the nationality of purchasers varies depending also on the part of Spain where they are buying. It is worth pointing out that Germans are particularly likely to buy property in the Balearic Islands. Of the property bought there by foreigners in 2020, 39.03% of them were bought by Germans. This is a significantly higher figure than the 13.25% bought by people from the UK.

However, British nationals were more likely to buy in Andalucía with 18.72% of foreign

purchases followed by those from Sweden (9.41%). In contrast, in the Canary Islands it was Italians who represented the biggest buyers of Spanish property, totalling 19.47% of foreign purchases with the UK in second place (16.95%).

Cataluña came in as being most popular with the French who bought 22.06% of foreigner property purchases in 2020. Closer to home, Murcia and Valencia continue to be popular destinations for British people. 32.71% of property bought in Murcia and 15.02% in Valencia were purchased by people from the UK. Belgians were the second group of Europeans most likely to buy in these regions (7.91% and 10.18% respectively).



Registered sales of houses by nationality of the buyer in 2020

VALENCIA ('COMUNITAT VALENCIANA')
% of the total number of foreign buyers

Nationality	%
United Kingdom	15.02%
Belgium	10.16%
France	7.12%
Sweden	7.09%
Germany	5.69%
Russia	4.80%
Netherlands	4.68%
Romania	4.16%
Morocco	3.96%
Algeria	2.23%
Other	34.57%
TOTAL	100.00%

MURCIA
% of the total number of foreign buyers

Nationality	%
United Kingdom	32.71%
Morocco	21.44%
Belgium	7.91%
Netherlands	3.06%
Germany	2.98%
France	2.94%
Ecuador	2.64%
Romania	1.82%
Ireland	1.83%
Sweden	1.68%
Other	20.94%
TOTAL	100.00%

CATALONIA
% of the total number of foreign buyers

Nationality	%
France	22.05%
Morocco	7.41%
Italy	6.38%
China	6.09%
Romania	5.29%
Germany	4.14%
Russia	3.03%
United Kingdom	2.95%
Belgium	2.71%
Netherlands	2.045
Other	37.89%
TOTAL	100.00%

ANDALUSIA
% of the total number of foreign buyers

Nationality	%
United Kingdom	18.72%
Sweden	9.41%
Morocco	8.68%
Belgium	7.71%
France	5.53%
Netherlands	5.04%
Germany	5.02%
Romania	2.82%
Denmark	2.80%
Italy	2.53%
Other	31.91%
TOTAL	100.00%

BALEARIC ISLANDS
% of the total number of foreign buyers

Nationality	%
Germany	39.03%
United Kingdom	13.25%
Italy	6.26%
France	5.56%
Sweden	4.55%
Denmark	2.61%
Netherlands	2.51%
Switzerland	2.485
Austria	1.49%
Morocco	1.34%
Other	20.92%
TOTAL	100.00%

CANARY ISLANDS
% of the total number of foreign buyers

Nationality	%
Italy	19.47%
United Kingdom	16.95%
Germany	16.61%
Belgium	9.76%
France	3.88%
Poland	2.34%
Ireland	2.11%
The Netherlands	1.91%
Sweden	1.61%
Switzerland	1.59%
Other	23.75%
TOTAL	100.00%



Dealing with the professionals

Once you have selected your property you will find yourself dealing with a number of professionals who will help you during the buying process. Builders and developers, estate agents and solicitors; it is important that you use only those who come recommended.

Ask to speak to someone who has used their services before and ask around yourself. Word of mouth can be an important method of ensuring that you pick the right professional to suit your needs. The length of time that a professional has been operating can also be a good guide. Aim to work only with established and respected firms who come recommended to you. When selecting a builder or developer you should only buy from those who have a good record and provide building guarantees.

Being able to communicate is vital. Unless you are fluent in Spanish, you will need to establish that there are people in the

organisation who speak your language either as a native or very close to it.

THE ESTATE AGENT

It is likely that the property you select will have been placed on the market through an estate agent. You should be aware that estate agents in Spain are not regulated by law. If the estate agent is a small enterprise then they should be a member of a professional association such as Agente de Propiedad Inmobiliaria (API) or Expertos Inmobiliarios. You can ask to see the agent's registration number and have it checked if you are not sure.

Estate agents can be persuasive and you should not feel under pressure to buy a property. Visit the property as many times as you need to before making your decision. When it comes to buying your property your solicitor will want to confirm that the estate

agent is properly authorised to act on behalf of the seller.

In some cases the seller might have more than one estate agent dealing with the property. This is not unusual and you should check that the different agents aren't advertising at different prices. You will want to be sure that you are purchasing at the lowest price advertised.

THE SOLICITOR

It is very important that the legalities are completed by a competent solicitor. You

should have your own representative who is looking after your interests when the contract is exchanged. Choose a solicitor who you can communicate with easily in your native language but who is also a specialist in Spanish property law. You must not pay a deposit until you have had the draft contract checked.

Your solicitor will ensure that the estate agent is properly authorised to act on behalf of the client and that the contract protects your rights and your money. The solicitor prepares for the signing of the Title Deed, represents you at the Notaries and registers property with the Spanish Land Registry.

Aim to work only with established and respected firms who come recommended to you



Inspection visits

Inspection visits have been a very popular way of prospective house buyers finding a property. These are organised by a builder, real estate agent and/ or promoter with the intention of selling their own properties.

They often begin with an exhibition or promotion in your home country and potential purchasers are flown over to Spain. They then spend two or three nights in a hotel whilst the daytime is occupied visiting different urbanisations or developments.

In some countries there are relatively few opportunities like this available now, in comparison to the previous decade. In most cases, those who choose this method of buying a property have been happy with the process and the outcome.

It doesn't suit everyone but for some, it can provide the ideal way of narrowing down

their search and finding their way through the practicalities of buying a property.

If taking part in an inspection visit isn't your idea of buying a property in Spain, why not devise your own method of sampling what's available.

By renting a property in the area first, you can enjoy the luxury of taking time to look around without having one promoter as your guide. Most estate agents in the area will be more than happy to show you what they have for sale.

Obviously the promoters have their agenda but their tactics have improved too. Most realise that hard sell techniques can be counter productive, particularly in a market where the buyer is king. Remember that it is vital when it comes to buying, and other important transactions, to engage a solicitor to represent your interests.



Checking out the property

By now you have hopefully found your ideal property. However keen you are to secure the deal, it is vital that the appropriate checks are carried out and that you ensure that it really is the right one for you. Be wary of those who have a vested interest encouraging you to buy before you are ready. They are keen to secure your deposit; you must be keen to ensure that the property you are buying is right for you.

Usually this is no different to the process you would expect to follow in your home country. However, the fact that you are abroad and unfamiliar with procedures can mean that hasty decisions are made and actions taken prematurely.

PROPERTY CHECKS

There are a number of checks that need to be carried out in order to ensure that the property you wish to purchase really is the good buy

it seems. These can be divided into four types:

- Legal status of the property
- Utilities and taxes check
- Legal status of home improvements
- Architect's inspection of the property

Legal status of the property

Your solicitor should make a thorough search of the Spanish Land Registry to make sure that everything is in order. This will include checks against the nota simple. The nota simple is an extract from the Land Registry that gives details of any mortgages and debts held against the property and is essential information for anyone considering a purchase. It includes:

- A description of the property - including

several physical features such as its boundaries, floors, surface area

- If it is part of a community of owners
- Who owns it and their identification
- Mortgages and any loans remaining
- Any outstanding taxes or debts held against the property
- If it conflicts with local planning laws
- The construction history of the property

Your solicitor will also request a certificate from the Catastral Registry and will check:

- That the m² on the Title Deed is correct for the property
- The Catastral reference
- The Catastral plan in order to see whether additional building work has been registered or not

The solicitor will then compare the details on the two registries with the Title Deed to make sure they are consistent.

He/she will check that the certificate of habitation / first occupation licence (formerly: Cédula de habitabilidad, nowadays: Licencia de primera ocupación) or second occupation licence (Licencia de segunda ocupación), if the property is a resale, is in place.

Every new property in Spain must be issued with a occupancy licence (Licencia de Ocupación). This licence is issued by the town hall as an administrative document and shows that both the property as well as its urbanisation are completed and ready for habitation. Only when an urbanisation is totally complete and all the infrastructure is in place, this licence will be issued.

When you come to sell your home, the new purchaser will want to see that the property was given a occupancy licence. The new owner will

need to apply for a new licence themselves, as depending on the area the license needs to be updated in order to contract utilities in the new owner's name. Without an occupancy licence you won't be able to complete a mortgage or take out a new water or electricity contract.

Utilities and taxes check

If there are outstanding payments on utilities the debts must be settled before services can be reconnected or transferred into your name. Outstanding taxes must be paid before you can take ownership of the property. Therefore it is important that a check is made of:

- Electricity
- Water
- Community fees
- Refuse collection
- Council tax
- Plusvalía tax

Legal status of home improvements

People sometimes forget that permission must be given for renovations and home improvements in Spain. Even relatively minor works require agreement from the town hall. If the property is part of a community they should have given their consent too. If alterations have not been recorded on the Title Deed, this can cause problems at the point of sale and if undetected could be an issue for you in the future. Any anomalies should be sorted out now.

Your solicitor should check against documentation:

- The number of rooms
- The number of floors
- If there is a basement and if it is used as living accommodation

- If any additional buildings have been added
- If there is a swimming pool or additional barbecue area
- If there are any other visible home improvements
- If terraces or balconies have been closed in
- If the outside appearance is the same as other apartments in the same building

Architect's inspection of the property

It is important that there is a visit to the property by a professional. An architect should visit the house you are buying and check its condition against 200 standards.

This might look like a formidable list of things to do. However, omitting any of these can cause trouble and prevent you from enjoying your home in the future.

COMMUNITY OF OWNERS

It is beneficial to find out if your property is part of a community of owners. The community of owners (comunidad de propietarios) is the legal body responsible for controlling and maintaining spaces and facilities that are shared by owners.

This might include gardens, communal pools, lighting, drains, stairways, lifts and entrance halls.

In order to maintain these facilities, community fees are collected from each owner and formal meetings are conducted to make decisions about maintenance and other issues that are raised. If, for example you decide that you want to refurbish your property you will need

to have permission from the community of owners as well as applying for the necessary licences from the town hall.

A community of owners might employ an Administrador de Fincas. The administrator can support the community in its official activities and makes the role of Chair easier to fulfil.

Although there are formal roles and laws relating to communities, they still operate in different ways and some are more efficient than others. It is worth enquiring if there is one attached to a property you are considering and getting some idea of how well it is run.

THE EPC (ENERGY PERFORMANCE CERTIFICATE)

Every home in Spain that is sold or rented must now have an EPC. The EPC provides a guide for those wishing to purchase a property of how energy efficient it is. There have been a few teething problems and the registration process has taken time to become established in some autonomous communities. However, it is now becoming a more automatic process and you should expect there to be an EPC in place for the houses you view.

You should ask to see the original certificate when you are viewing a property. The certificate contains an energy rating for your property according to a scale; 'A' is the highest level of efficiency and 'G' the lowest.

This rating takes into account the level of consumption of electricity, water and gas.

Responsibility for organising an EPC rests with the seller or the builder in the case of a new property. Estate agents must also clearly show the allocated energy label in their adverts and should be signed by a qualified technician who has the proper authorisation.

The solicitor will then compare the details on the two registries with the Title Deed to make sure they are consistent



Obtaining a mortgage

You may not have sufficient capital to be able to pay for your property without some form of finance. In this case you might decide to apply for a Spanish mortgage.

You can apply here for a mortgage in much the same way as you would in most other countries. However, banks are no longer as keen to lend as they once were.

You will be expected to be able to contribute a large deposit and they will want to see proof of income to ensure that you are in a position to pay your mortgage now and in the future.

A mortgage cannot be taken out for longer than 30 years and must be repaid by retirement age. New mortgages must be accompanied by a handwritten note signed by the client saying that he/ she has been given

details about the mortgage and understands the possible risks and content of the contract.

If you are considering taking out a mortgage you should:

- Decide how much to ask for - you must take into account all the expenses involved in taking out the mortgage as well as how much you can afford monthly from your income for the interest
- Compare quotes from different mortgage providers
- Make sure you are familiar with all the terms and conditions of the mortgage provider you've chosen
- Ask for a firm offer that comes with all the details and the complete contract.

The next steps include:

- After you have accepted the firm offer, the mortgage provider will send the documentation to the notary's in order to prepare the Mortgage Deed:
- The notary then needs three days prior to signing the Deed to request the nota simple
- The signing of the Mortgage Deed will take place at the same time as the signing of the Title Deed
- After the signing, the Notary will send an electronic version of the Title Deed and the Mortgage Deed to the Land Registry

If you do find at some point that you are

able to pay off your mortgage then just be aware that you will need to inform the Land Registry too. If they are not informed it will still be down on your Deed that you owe money against your home.

In order to make sure that the records are in order, a representative from your mortgage holding bank needs to sign the Mortgage Cancellation Deed at the Notary Office. This can then be sent to the Land Registry.

As well as the additional cost you will incur by paying your mortgage there will also be an administrative cost applied by the mortgage lender. Make sure you are clear about how much this will be as it can amount to around 2% of the mortgage itself.

You can apply here for a mortgage in much the same way as you would in most other countries



Making sure your paperwork is in order

Your solicitor can not only help to ensure that the correct checks have been made on your property but that your own paperwork is in place too. The key document you will need is the NIE.

THE NIE

If you don't already have an NIE (Número de Identificación de Extranjeros) you will need to obtain one in order to be registered with the Spanish Tax Authorities.

The NIE is an identification number that must be applied for personally at the Foreigner's Office or National Police Station. Where, appropriate, a residency certificate can be applied for at the same time.

Although the NIE requires a personal application, this can still be acquired without

you coming to Spain if this causes difficulties for you. In order to obtain one without travelling you will need a power of attorney.

THE POWER OF ATTORNEY

Obtaining an NIE and the buying process require a number of signatures and appearances at the Spanish Notary. The Notary is a professional within the Spanish law system whose main function is to certify Spanish documents ensuring that private agreements fulfil certain legal criteria. The Spanish notary is involved in legalising contracts and uses a stamp and signature to endorse them.

Depending on where you are living, the requirement to sign in person can present problems and if you are a non-resident it can be particularly difficult to organise. This is where the power of attorney becomes a vital

tool in order to secure your new property in Spain.

The power of attorney (Poder Notarial) is a means of enabling the legal process to continue without you being there in person. It allows you to nominate a trusted individual to represent you in certain transactions and is a legal document that must be signed in the presence of a notary.

The good news is that a power of attorney can be obtained either here in Spain or in your home country. So, if you do spot the ideal property on the last day of your holiday it is possible to return home and make the arrangements from there.

Once your representative has the power of attorney then they can continue to put your purchase in motion right through to completion whilst you continue your ordinary business at home.

THE CONTRACT

Before you sign the Title Deed you sign a private contract between the buyer and seller. This isn't logged on an official registry but in law it is considered to be legally binding. Therefore it is vital that you have any contract checked before signing.

Don't part with any money until you have had the draft contract scrutinised and you are confident that it protects your rights and your money. The solicitor you have appointed will do this for you. It is important that the price declared for the purchase is what is recorded. Declaring a lower price is against the law.

When you sign the private contract you will pay a deposit. If you, as purchaser, break the contract you will lose your deposit. If the vendor is the one who defaults then you are entitled to twice the amount of your deposit as compensation by law unless it is written differently in the contract.

The private contract also includes agreement

about who will pay the expenses surrounding the sale. In practice purchaser pays everything except the plusvalía which the seller must pay by law. If the property is being sold by a property developer it is illegal for the buyer to take on an expense that legally is the responsibility of the seller.

SIGNING THE TITLE DEED

Once the necessary checks have been completed then the paper work will be prepared ready for signing. The Title Deed will need to be signed at the Notary. You have the right to choose the notary who you would like to authorise the signing of the Title Deed.

Signing the Title Deed includes:

- Checking the identity of the seller and buyer
- Checking the description of the property
- Highlighting any debts that are held against the property
- Checking that any community fees have been paid
- Requesting proof of payment of the IBI property tax and informing officials of the change of ownership
- Informing those signing of their legal
- Explaining the sharing out of expenses between the two parties
- Managing payment, if it's requested, of the different expenses that accompany the process

Never sign anything that you don't understand or that you aren't completely sure about. Once you have signed the Title Deed, you can't go back. When you sign the Title Deed at the Notary's office you will not be given the original Title Deed to your property but should receive an authorised version known as the Copia Simple.

If you have a mortgage on the property the Title Deed and the Mortgage Deed will be kept with the bank. Once the mortgage is paid then you will be given the both documents.

If you purchase without a mortgage you will receive the Title Deed when you register the property at the Land Registry. Make a note of the notary who signed it so that if you do need a replacement at some point you are able to obtain another copy of the original. Finally, the property is yours.

AFTER THE SALE

Once the Title Deed has been signed then

the property will be registered at the Land Registry and the utility companies should be informed of the change of name.

You will now need to complete your payments by settling with your legal representative. It is important that you ask for an itemised receipt rather than accepting just a total amount.

You should be given original invoices for the notary fees, the Land Registry charges and the taxes you have paid.

Make sure that you retain all the documents, invoices, receipts and guarantees for future reference.

Don't part with any money until you have had the draft contract scrutinised and you are confident that it protects your rights and your money



How much should it all cost?

It is important from the outset that you are clear about what your budget should be for buying a property in Spain. Of course, it's not just the cost of the property itself.

There are a number of legal and tax obligations that you must meet to ensure that your purchase is problem free in the future.

These can be divided into:

- External costs
- Taxes
- Legal fees for the purchasing process

External costs

The largest external costs are for the Spanish Notary and the Spanish Land Registry.

The scale of Notary charges is fixed by law and

the actual amount to be paid will depend on the extent of the legal provisions of the Title Deed. As a guide we would say that charges normally start at 800 Euros.

The Spanish Land Registry (Registro de la Propiedad) is an official registry that protects the rights of the owners of a Spanish property. The title deed must be inscribed in the local land registry. The fee depends on the value of the property but normally starts at 400 Euros.

There are other additional expenses that apply in some cases depending upon individual circumstances. For example, if you have never had a fiscal interest in Spain before, you will need an NIE number before you can open a bank account or purchase your property.

You will also need a power of attorney if you are unable to be here in person and need to appoint an adviser you trust in Spain to act on your behalf.

Taxes

In addition to the external expenses there are also taxes to pay. The taxes are dependent on whether the property is new or resale.

Type of property	Tax payable
New build	IVA (VAT) 10% - Stamp duty (AJD) 1.5%
Resale	ITP (transfer tax) 10%

* Dependent on where your property is located
PROPERTY TAX TABLE

Where a resale property is sold by a non-resident it is usual practice for 3% of the purchase price to be retained by the lawyer acting on behalf of the buyer. This is a legal requirement and is paid to the Spanish tax authority on account of capital gains tax. Where the seller has not made a profit, it can be claimed back.

Both new and second hand properties are also subject to Plusvalía. This tax is paid on the increase in the value of the land; the exact percentage is decided by the local tax authority. It varies according to location, the time elapsed since the last transfer of title and the land size. The Plusvalía is legally the responsibility of the vendor. You need to be aware of the possibility of complementary tax. This is a tax that is sometimes levied following a sale when the price declared on the Title Deed is below that considered the real value by the Spanish Tax Authority. If you do receive a demand you can appeal.

Legal fees for the purchasing process

Finally, you will need to build in the cost of

the legal fees for the purchasing process. It is important that you ensure that your interests are represented throughout. An independent lawyer will give you advice and the reassurance that legalities are checked on your behalf during the buying process. Make sure that whoever you entrust with this very important transaction places your needs first and does not have a conflict of interests with other parties.

It is important to be able to communicate clearly with your lawyer who will ideally be a native language speaker. He/ she should be part of a respected and trusted firm, specialising in Spanish property law. You should be provided with a personalised quote with no obligation.

Moving your money

Moving money between countries can be costly. When you buy a house and transfer your money you can find that up to 3% of the total sale price is lost.

For example, when transferring money, the bank will decide exactly when to move it and generally this will be at the exchange rate that is most advantageous for them rather than for you. Using a SWIFT transaction means that another charge of around 0.6% will be levied.

An alternative is using a currency exchange company which does not charge excessive amounts. They are able to do this because they keep funds in both countries. So, you can deposit your money in an account in your home country and the money is then taken out of an account in Spain. It isn't transferred because the money is already there. This means that it can be done free of charge - depending on the company you deal with.

The taxes are dependent on whether the property is new or resale



Top Ten Tips to purchasing property in Spain

- 1 Take your time** - visit the property on several occasions, preferably at different times of the day. If you need time to go away and think, do.
- 2 Do your research** - find out as much as you can about the area as well as the property. Who lives there? What is it like to live there?
- 3 Work out your budget.** You should allow an additional 12%-15% on top of the cost of the property for conveyancing purposes.
- 4 Check that you will be able to run the property after you have bought it.** You will need to pay taxes, standing fees for utilities and community of owners charges.
- 5 Consider your needs now and in the future.** Location is perhaps more important than the specification of the house itself.
- 6 Take advice from the start** - don't sign or pay anything until all the paper work has been checked by your solicitor.



- 7** **Employ a solicitor who will represent your interests** - someone with a good reputation.
- 8** **Make sure you are kept informed throughout the purchasing process.** Having a solicitor who you communicate with easily and in your native language is important.
- 9** **Keep some money aside after the sale** if you bought a cheap property, just in case there is complementary tax to pay.
- 10** **Make sure you are clear about what arrangements you need to make following the sale and what bills you will have to pay.** Once the house is yours, your responsibilities don't stop there.

ENJOY YOUR HOME

We hope that you have found this handbook useful. In it we have tried to outline as clearly as possible what is involved in purchasing a property in Spain, safely.

We hope that our handbook has given you the confidence to buy a home here and take advantage of the range of property available at affordable prices. There is something to fit everyone's budget and by following our guidelines you too can look forward to many years enjoying your home in the sun.

We have helped thousands of people purchase their home in Spain. We hope that you will be joining them soon.



About Us

Ábaco Advisers is an independent firm of lawyers and legal advisers.

We specialise in Spanish property law and have been helping people to purchase property safely and easily throughout Spain since 1999.

We will provide you with:

- Professional practice backed by more than 20 years experience
- A wealth of specialist knowledge supplied by over 50 experts in their field, including lawyers, solicitors, economists and tax advisers
- Advice in eight languages: English, Swedish, Norwegian, Russian, German, French, Dutch and Spanish

- The confidence of knowing that we have helped more than 38,000 satisfied customers buy their new home in Spain

We will ensure that:

- You enjoy an easy-to-understand service that makes transparency a priority
- Your interests are safeguarded throughout the buying process
- You are secure in the knowledge that all our transactions are in strict accordance with Spanish Law
- You can communicate easily with your lawyer and legal adviser in your native language.



Contact Us

Here you can find the maps and contact information of our three offices, which will help you find them in Torrevieja, Alicante and Marbella.

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