

BUYING PROPERTY IN PORTUGAL

It is a straightforward process provided you stick to the letter of the law and are advised or represented only by competent and reputable specialists who are fluent in a language you understand.

- Deal with an Estate Agent who is Government Licensed (Mediador Autorizado) with Ami Number and whose conduct is subject to enforced rules.
- Deal only with Lawyers and Solicitors (Advogados or Solicitadores) who are fully qualified and whose conduct the Portuguese Law Society controls. You can give your Lawyer or anyone else a specific power of attorney to sign documents on your behalf, but you should ensure that the proper steps are being taken without any undue delay. Lawyers' fees are between 1% & 1,5% plus IVA (VAT@23%) of the purchase price.
- Deal with a local Chartered Surveyor who can ensure the Purchaser can understand the nature of the property being purchased and will also highlight any likely liability for future repairs.

SEARCHES:

Having chosen a property, ask your representative to search the local Land Registry (Conservatória do Registo Predial) to check that the seller (vendedor) has clear title of ownership

and that no one else has rights, charges or mortgages over it. Also check that what is registered conforms to what is actually built, as well as the area of land.

FISCAL NUMBER:

Your Lawyer will help you organise the application for a fiscal number (número de contribuinte) at the local Tax Office (Finanças), as you must have one to purchase a property, to open a bank account, for payment of annual property rates & other taxes. EU residents no longer have to instruct a fiscal representative, although we would recommend it and there are some excellent companies specialising in dealing with this.

TAX DOCUMENT:

Obtain the official tax document (caderneta predial) relating to the property from the seller and check that the description of the property (number of rooms, area of the house, area of land, etc.) is the same as in the land registry.

USAGE LICENCE:

Obtain a copy of the usage licence (licença de utilização) from the local town hall (Câmara Municipal). For residential property you will need

a Habitation Licence (licença de habitação), which confirms that the town hall has inspected the property and that it complies with planning permission and building regulations. Non-residential licences need to stipulate the appropriate commercial or industrial use.

Short term rental licenses (Alojamento Local) are applied for at the local town hall with the following needed to obtain one: Existing usage license; Documents proving ownership (Certidão do Registo); Declaration from a qualified technician for electrical & gas installations, including hot water supply; Fire extinguishers & safety equipment including signage; Floor plan; Fiscal booklet (Caderneta Predial), Complaints book after "AL" license has been issued.

OTHER SEARCHES:

There are other checks and enquiries, which are strongly recommended and should be carried out, e.g.

- Ask your lawyer or a Chartered Surveyor to examine the local developments planned for the area;
- Ask a Chartered Surveyor to fully survey the property;
- If buying in a development, check the regulations governing condominium charges.

This all adds to the expense, but it cannot be stressed enough that in making these enquiries you will fully understand all the obligations you are taking on in making this investment. This might not be your home country and so things must be checked carefully; providing this is done, you should have no problems in the future.

MORTGAGES:

A Euro mortgage can be obtained on the property that is purchased but the spread can be quite high. Also basing a mortgage on the

property in Portugal will increase the stamp duty by 0.6% of the amount borrowed plus additional registration and notary costs.

If one has equity in a property outside of Portugal then it can be easier to raise the funds based on this. Often it is safer to borrow the funds in the currency that one earns, so that exchange rate fluctuation won't alter the monthly payments.

PROMISSORY CONTRACT:

Have a promissory contract of purchase and sale drawn up (contrato promessa de compra e venda) to be signed by you and the seller. It should include:

- Identification of the parties;
- Identification of the property;
- Agreed terms and conditions of the contract.

You will normally have to pay the deposit of 10% to 30%, of the full purchase price at this stage. The contract can be signed in front of a Notary. It is legally binding on both the buyer and the seller. If the buyer defaults he/she forfeits the deposit. If the seller defaults he/she has to pay the buyer double the deposit (or, if a clause of specific execution is included, the vendor cannot withdraw and the purchaser can legally force the vendor to sell to him).

IMT TRANSFER TAX (PREVIOUSLY KNOWN AS SISA) & IMPOSTO DO SELO STAMP DUTY:

These are the Portuguese Purchase Taxes that are paid simultaneously and will need to be paid prior to completion. The amount payable varies with the value of the property and your lawyer will always advise you of this figure before you incur any expenditure.

IMT Tax applied is on a sliding scale from 1% of €92.407 up to 6% above €550.836 on purchases of second/holiday properties. (There is also a special rate if you are a resident and if it is your permanent residence – Exemption below €92.407 and then taxed up to 6% above €574.323)

Stamp Duty Tax is 0.8% on the value of the purchase.

Different percentages are applicable on land or non-residential property and in those cases it is a fixed percentage that does not vary with the price. Rural Land is 5% and for other non-residential purposes and urban land it is 6.5%.

A very important exception has been introduced to the above figures in that whenever the purchasing entity is a “black listed” Offshore territory resident / company, the IMT Tax percentage will be 10% regardless of the purchase price or the nature of the property.

NOTARIES & REGISTRATION FEES:

These will have to be paid by you on completion and as a rule will be approximately 400 Euros for the notary and 250 Euros for the registration fee.

OUTSTANDING ANNUAL PROPERTY TAXES

(IMPOSTO MUNICIPAL SOBRE IMÓVEIS):

Unpaid property rates (IMI) attract fines but may be allowed to mount up for some considerable time without official action; so ask the seller to show proof of payment for the last five years. Any outstanding property taxes should be settled before you make the final payment (your lawyer should do this for you).

ENERGY CERTIFICATE

(CERTIFICAÇÃO ENERGÉTICA):

Since 1st January 2009 an EU regulation requires Energy Certificates for all properties in order to inform about the thermal insulation values of properties; to recommend ways of improving these; to promote refurbishment works and also to increase the efficiency of buildings. These are compulsory for all properties that are rented or change ownership and is valid for 10 years.

FINAL DEED:

Proper title to the property comes with the final deed of conveyance (escritura de compra e venda) which is often signed in the office of a notary. All the relevant documents have to be checked before the final contract is read aloud and, unless the buyer understands Portuguese, interpreted in the buyer’s language.

REGISTRATION:

Finally, register the property in the name of the new owner in a local land registry office, which is automatically carried out at the time of completion by the notary.

AFTER COMPLETION:

If the registered owner of the property changes in the transaction, new contracts will have to be entered into with the utilities companies for electricity, water, telephone, etc. Your Lawyer can attend to these transfers on your behalf for a reasonable charge. Payments can be effected in most cases by automatic bank transfer.

OFFSHORE:

This is still a legitimate, convenient and common place way of acquiring property in many countries, including Portugal. When a property owned by an Offshore Company is bought, it

is the shares of the company, rather than the property itself which changes hands. By buying Offshore one avoids property Transfer tax (IMT) plus Stamp Duty, Notary and Registration costs. Please note that one should still carry out all of the searches, checks and inspections mentioned previously.

However, in November 2003 the Portuguese Government revised of all property taxes in Portugal and introduced new legislation. Included in this was a clause which obliges any Company registered in an Offshore base included in the "Black List" to pay higher rates and higher IMT transfer tax. If a company is registered in a "White Listed" location such as Delaware or Malta then the standard taxable value for rates and IMT will apply.

RATEABLE VALUE OR PROPERTY TAX

(IMI OR VALOR PATRIMONIAL):

In 2013 the IMI annual tax applied is between 0.3 and 0.5% of the taxable value for urban property and 0.8% for Rustic property (but 7.5% for offshore – see above).

TAXATION:

If you intend to become a resident in Portugal, advice should be taken from an accountant or fiscal representative. If you do not intend to become resident, there are only three taxes that will concern you, Capital Gains Tax, Annual Council tax (IMI) and Tax on the rental income should you decide to let your property out.

Your lawyer and, if necessary, your accountant, can advise you of your future liability with any of these taxes. Note: If you are acquiring the shares of an offshore company, care should be taken as to any past Capital Gains Tax liability that the company has accrued (28%).

Europeans who haven't been resident during the past 5 years can apply for Non Habitual Resident status (NHR) and be exempted for 10 years from income tax on Pensions and other non Portuguese derived income, while some professions can pay reduced income tax of 20% on income within Portugal.

WILLS:

It is always advisable for purchasers of a property that they immediately make a Will in Portugal dealing with the assets in Portugal. If this is not done, probate in the country of residence has to be taken out then transferred and translated into Portuguese. Making a Will in Portugal will reduce the expense and avoid time delays. The Portuguese Will is in addition to and not in place of your existing Will. As from the 1st January 2004 inheritance tax was zero-rated for leaving assets to immediate relatives, ascendants (parents); descendants (sons/grandsons). The rates for non EU residents are very low and are set off against any double taxation agreements in place with your home country.

MEDICAL AND SOCIAL SECURITY SERVICES:

The medical system has greatly improved & there are two public hospitals (Hospitais Públicos) in Portimão and Faro which cover the Algarve. Apart from these there are well equipped local health centres (Centros do Saúde) in most towns and villages.

EU citizens who have paid their social security, on payment of a €5 to €20 registration fee, can get free treatment showing their Passports or EHIC health cards. Residents should apply for Portuguese health card (Cartão do Utente) and social security card

(Cartão de Segurança) if they want treatment and discounted prescriptions.

There are many private health clinics and the main Private hospitals are in Alvor and Faro. Private health insurance is recommended and easily obtainable.

SCHOOLS & EDUCATION SYSTEM:

The standard of education is good and all EU citizens have the right to be educated if they are resident in Portugal. Foreign students are welcome and integration is easier the younger they are.

There are excellent private international schools of which the main ones are located in Porches, Vilamoura and Almancil.

ABOUT US:

The Cerro Novo Real Estate Agency was formed in 1981 and is one of the longest established agencies in the Algarve. It is a family owned company and has built up its reputation through sound and unbiased professional advice and assistance to both vendors and purchasers in all areas of property purchase and sales, from the commencement of instructions through to the free after sales services we provide.

As founder members of the Algarve Property Group, we are also able to extend our services throughout the length of the Algarve through other members of the group & many other reputable agencies.

In addition to sales and purchasers of property, our services include valuations, investment advice, insurance and if located close to our office, a full management and rental service. •

Cerro Novo is at your service!



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