

Purchase guide

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Content

03.

Paperwork &
Solicitor

04.

Location

04.

Viewings

05.

Finance

06.

Resale

09.

New
Development

10.

Taxes &
Obligations

11.

Golden Visa



There are some people who may find the process of buying a home or property an extremely complicated and convoluted process, while others may find it as easy as choosing a property, paying for it and moving in. Both types of people are and are not right.

Buying a property is not such a complicated process and can even be a nice process, especially if you have the right professionals on your side.

However, knowing that it could be overwhelming at first, we've prepared a complete guide that can shed some light on the *"at first complicated but then not so complicated"* process of purchasing a property in Spain.



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Paperwork & Solicitor

Even though it could be considered out of the equation of the purchase of a property, these steps are necessary and if not solved properly, could easily result in trouble later on in the process.

If you are planning to invest or buy a property in Spain, you need to ensure that you have all the documentation needed before taking the step of purchasing a property.

There are plenty of moments to sort the documentation out, and it all depends in your intention. If you already know for a fact that you will be purchasing a property sooner or later in Marbella, then our recommendation is to get them as soon as possible. These documents will allow you to make all the necessary steps involved in the purchase of a property.

If you want to visit Marbella first, and ensure that La Costa del Sol is the place you will invest or purchase in, then you could do this paperwork while you are in Spain or even later, but you need to take into account that these documents may take some time to be issued.

There is no possibility to purchase a property without these documents, so these are a MUST, and you will need to take this into consideration.

The documents needed before doing any legal action are at least the N.I.E. (*Número de Identidad Extranjera*) (Foreigner Identity Number) and a bank account in Spain. The latter is recommended to search for a bank that operates with foreigner countries. During all the process further documents will be needed, but commonly, these are documents that are easily obtainable.

Solicitor

Another way around getting all these documents, and all the future paperwork, is to hire a solicitor. It is highly recommended to hire a solicitor to handle all the paperwork involved in the purchase of a property. Not only this, but the solicitor will also take care of the legal Due Diligence of the property, performing the following tasks:

- He or she will check that the vendor is in fact the legal owner.
- That there are no outstanding debts on the property
- Is there an existing mortgage and if it is transferable to you?
- Whether the property complies with local building regulations and if any major construction is due in the area.
- He or she will check the minutes of the community's last AGM to see if the charges are being met by the property owners. If not, you may find the costs increasing to compensate for non-payment.
- The solicitor will also check that the utilities are actually connected to the property.

Finally, will help in the draft of the purchase contract and the legal aspects of the whole process. We always recommend to hire a solicitor, but moreover in the purchase of a resale, where a lot of things can go sideways and the solicitor will defend the interests of the buyers, and minimize the damage done.

Location



With the legal and preparatory steps solved, it is time for getting into the process itself. This is when the fun begins.

The three most important decisions to make when purchasing a property are location, location, and location. Nowadays we know you can make a quite extensive investigation online about the location and get to know a little bit of every place, but, how many times you thought you knew one place before going there on holidays and turned out it was completely different that you expected?

Every agency will encourage you to physically visit the place as soon as possible, and that is for a good reason. If it were that easy then there wouldn't be that many real estate agents in La Costa del Sol.

Here in La Costa del Sol the main areas are: Marbella, Golden Mile, Benahavís, New Golden Mile and Estepona, but there are other areas and developments that are well known so if you know a place not listed here don't worry, there are also plenty of good locations outside this list.

Viewings

Whether you know the location where you want to purchase, or you don't know yet, you will probably need to make several viewings. These are important not only to see your future home (obviously), but to get to know the area, the development, distances from different places, facilities (golf course, tennis court, gym, etc.), even to check if you like the closest beach from home.

It is important to plan these out carefully to avoid wasting your time, and to ensure there is the possibility to view the properties you really want to see. These viewings are all arranged by the agent, and with time, he or she will arrange the most optimal route to complete these, and get you to see as many as you want/can the days you spend doing the viewings (It is not recommended to view more than 6 properties per day, as it can get confusing).

For the agent, it is also crucial to know your honest opinion. If you don't like a property don't be afraid to say so, and if you do like something about it, express it as clear. This way the agent can suit the following

selections and eventually hit the nail and find that long-desired property.

It is important to build a strong relationship with your agent because the search for a home can extend for months or even sometimes years (hopefully you will find your dream property before), and that is the main reason that you will generally hear that it is best to just stick to one agent that can understand you the best, even if you start with different agencies at the beginning.

Finance

If there is need of a mortgage, you should have a good idea of the rates and possible deals around the market. You can always ask your real estate agent or solicitor; they will probably have a good idea around the topic.

You need to take into account that a mortgage will take up to 2 months to be conceded.

You could always ask for the mortgage in Spain. This process will need for additional paperwork, but it is the same expected in a common mortgage (the most important thing to demonstrate are enough earnings).

Mortgages in Spain can finance up to 80% of the value of the property.

The most common periods of amortization are 20-30 years but you could find others.

The rate could be fixed or variable. Fixed is usually higher but the main benefit is that it is fixed (surprise), so it is more reliable and will make a safer investment.

On the other hand, the variable rate starts usually lower than the fixed rate, but it depends on the market and its fluctuations. The variable rate will typically be referred to the EURIBOR , and presents bigger risks when getting the mortgage and can eventually be more expensive than a fixed rate (see the graph below).

Once you find your dream property and wait for the mortgage approval, you can always ask your solicitor to include a clause to the purchase contract subject to the grant of mortgage.



Figure 1. EURIBOR between Jul 22 and Jun 23



Before getting into the process of the purchase itself, it is time to introduce the two types of properties available in the real estate market: Resales and New Developments. The main process is quite similar in both of them, but there are some key differences that could make one more suitable to you than the other.

The main process of the purchase will be introduced for the resale, as it is more representative and could be more difficult than buying off plan, and then, the differences and key points of buying a new develop-

Resale

With all the paperwork sorted out, all the research and the viewings done resulting in the selection of your ideal home, it's time for the big event.

Negotiation

The first move is done by the buyer, and consists in setting up an offer. It must be done directly through the agent. This can be helpful for both parties, as the agent has good experience in this type of deals.

The negotiation part can go back and forth some time, and once there is an agreement, then it comes the next steps. Something worth noting is that if it exists any special requisite the buyer needs to include, it must be stated in the original offer.

Reservation Contract

Once there's common ground between the buyer and the seller, it usually comes the reservation contract. The reservation contract is a document that will allow the buyer to withdraw the property from the market and the payment usually varies from 3.000 to 10.000 euros. The payment of this reservation contract is done between lawyers, so it doesn't imply any bank in between.

Its main use is to do the necessary due diligences. This is the moment where the solicitor will do the legal due diligence, and, if asked, the “technical” due diligence (by an inspector), where the state of the property is checked thoroughly, searching for cracks in the walls or ceiling, humidity patches, ventilation, electrical installation, etc. If there are any problems detected, it might change the conditions of the contract and therefore, the price offered for the property.

The reservation contract usually comes with a clause that will protect the buyer if something sketchy is found in any due diligence: “*subject to due diligence*”.

In the event of a withdraw of the buyer from the contract for no apparent reason, he or she will lose the quantity paid to the seller, unless there exists any condition or additional clause negotiated in the reservation contract.

Private Purchase Contract

If everything goes according to plan, then the common span between the reservation contract and this step is around 2 weeks. Right now is when the “proper” purchase contract comes. There are different contracts in Spain, but their differences are small and related to legal aspects (*Contrato de Compraventa, Arras Penitenciales, Opción a Compra*). These aspects can be discussed with the lawyer to check for the most optimal contract for each situation. For the scope of this document, it is more important to understand the main aspects of the purchase contract.

This contract includes the payment of the 10% of the price of the property. If there was a previous reservation contract, the price paid in the reservation contract comes as a discount from this 10%. (If the 10% of the price is 50.000 euros and the reservation contract included 5.000 euros then you just need to pay 45.000 euros).

It is worth mentioning that there is still possibility to withdraw from the contract from both parties, but each one will (usually) need to pay a compensation to the other party. The buyer will lose the 10% paid and the seller will need to return the 10% received and also pay an additional 10% to the buyer. Make sure you understand all the implications of the contract because it is legally binding.

Title Deeds

Let’s say no party has withdrawn from the contract, so then, on the agreed date of purchase, you and the seller meet at the designated notary’s office to sign the title deeds (*escritura*). You pay the remaining amount and receive the keys to your new home. You are now officially the owner, so claim those keys and host a party in your newly acquired home (don’t forget to invite your real estate agent).

This payment is usually done through *giro bancario*, which is a payment done between banks directly, using paychecks and can be done internationally.

Then it only comes the registration of the property. Your lawyer takes care of registering the title deeds so that the property appears in your name in the Land Registry, pays the relevant taxes and fees (we will discuss this in a moment) and sets up direct debits for utilities and annual taxes, such as the local property tax.



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New Development

As introduced before, these last steps have been tailored to buying a resale property, but buying off plan introduces slight but important differences that must be known.

First of all, there is no negotiation in the price, and more important than that, the payment follows a different structure. This responds to the nature of new development itself, where the property (most of the times) is being built, and it's not ready. The common method of payment in these types of properties is the following:



The promoter normally asks for a deposit of between €3,000-€10,000 (depending on the type of property) (*Reservation Contract*). Once the promoter receives the building license, the *Private Purchase Contract* is signed and a second payment of 20%/ 30% of the total price minus the reservation is done (the percentages vary depending on the promoter, but are very similar).

Until this step the process is fairly similar to the resale, the only difference is that promoter may ask for more than 10% in the private contract, as stated above.

Additionally in this contract some further payments could be agreed, such as paying 10% more in the next 6 months after the signing of the contract / during the construction phase.

These figures vary depending on the project but normally you do not have to pay more than 40% in advance. The remaining 60% is paid in title deeds when the keys are handed over.

This is a main difference between resale and off plan buying. The buyer does not need to have the full price the property is asked for. This gives the buyer a lot of flexibility, as it allows him/her more time to save or better conditions to get a mortgage.

The last advantage is purely monetary. The properties off plan usually are at first between 20% to 30% below market value, which can make a really good investment if you have no rush and can wait for the completion of the construction. Not only that, but if the market is in *good shape*, that 20% or 30% can multiply in the span of the construction.

One last thing that should be noted is that the price of the properties in the promotion follow different price stages. This means that the cheapest prices will be encountered when the building hasn't been started, and the most expensive when the properties are closer to completion. During this span of time the price can increase several times, losing the advantage of getting the price below market.

Taxes and Obligations

In Spain there are several costs and taxes associated to the purchase of a property. As a rule of thumb, you should expect to pay in total at around 10-13% of the price of the property in taxes and extra costs. These include:

Transfer Tax (Impuesto de Transferencia)

Known as *Impuesto de Transmisiones Patrimoniales* (ITP)- You pay this on resale properties on a sliding scale depending on the price. On the Costa del Sol, it ranges from 8% on properties priced below €400,000; 9% on properties priced between €400,000 and €700,000; and 10% on properties priced over €700,000.

VAT (IVA)

Value Added Tax (VAT): if you buy a new home on the Costa del Sol, you pay VAT instead of transfer tax. VAT is charged at a flat rate of 10%.

Stamp Duty (AJD)

Actos Jurídicos Documentados (AJD): this tax applies only to new properties and is payable in addition to VAT. On the Costa del Sol, stamp duty is 1.5% of the purchase price.

Notary and Registry fees

Unless your purchase contract states otherwise, it is standard practice for the buyer to pay notary and registry fees. These vary according to the price of the property and the complexity of the title deeds. They usually range from 1 to 1.5%.

Legal fees

Lawyers on the Costa del Sol generally charge between 0.5 and 1% of the purchase price for their services.

Golden Visa

Another important aspect for non-EU residents is the possibility to obtain a resident permit or visa thanks to the so-called Golden Visa. This permit is conceded to a person who has made a purchase of one or more properties with a total value of 500,000 euros or more (and other different investments, such as 2 million euros in public debt or others).

One of the things to remember is that the UGE, Unidad de Grandes Empresas, requires the purchase of the property to be free of encumbrances. What does this mean? It means that the applicant cannot have used a loan of any kind or a mortgage. If you are thinking of applying for this authorization or visa as an investor this is something you should take into account.

This doesn't mean that you can not have a mortgage in the investment, but it means that at least there should be 500.000 euros invested free of any legal responsibility.

To obtain the Golden Visa you also need a public or private health insurance taken out by an insurance company authorized to operate in Spain.

This Visa is valid for 1 year and then can be renewed by maintaining the property invested in. The Visa can also include spouse and children.



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