

# Legal guide for the buyer of a property in Spain



# Index

- 03** Introduction
- 04** **1. Steps to be taken before buying a property in Spain:**
  - 1.A: What should I check before buying a property in Spain?
  - 1.B: Purchase contract.
- 07** **2. Control and technical supervision of the property.**
- 08** **3. Applying for a mortgage in a Spanish bank.**
- 10** **4. Documentation required to buy a property in Spain.**
- 12** **5. Title deed.**
- 13** **6. Procedure after the purchase.**
- 14** **7. What are the expenses of the buyer costs in Spain?**
- 16** **8. Fixed costs for owning a property in Spain.**
- 16** **9. Additional services for buying a property in Spain:**
  - 9.A: Currency exchange
  - 9.B: Home insurance
  - 9.C: Security alarm
  - 9.D: Processing tourist licences
  - 9.E: Brexit
  - 9.F: Golden Visa
  - 9.G: Will
- 18** **10. Fiscal Representative.**
  - 10.A: Tax representation
  - 10.B: Taxes on the possession of immovable property
    - 10.B-1: Non resident tax
    - 10.B-2: Property tax
    - 10.B-3: Capital gain tax
- 19** **Conclusión.**
- 20** **What makes us different?**

# Introduction

The dream of many foreigners is to buy property in Spain, one of the main reasons being our sunny climate, more than 320 days a year, so it is crucial that you choose the right place where you are going to buy your property, because it must exceed all your expectations, to be able to enjoy your dream come true, with your family and friends.

The Costa Blanca area, specifically the area south of Alicante, meets all the expectations of the foreign market to buy property, where not only the sun and the blue flag beaches (many of them) can be enjoyed, but also the exquisite Mediterranean cuisine and the festivals of each of the villages that make up the province of Alicante. The province of Alicante, also known as the Costa Blanca, is off to an extraordinary start in 2023. The first quarter of this year saw the highest number of property transactions by foreign buyers ever documented.

The province recorded 23,380 international real estate transactions in the first quarter of 2023, representing an 8% increase compared to the same period in 2022. These compelling figures underline Alicante's growing attractiveness as a prime location for foreign investment throughout the year, with 14.52% of all property purchases in early 2023 made by international clients.

The region continues to attract traditional foreign buyers from countries such as the UK, France, Russia, Germany, the Netherlands, Nordic countries and Belgium, which accounted for 38.41% of all foreign property purchases in the first quarter of 2023.

Alicante contributes significantly to Spain's foreign property market, accounting for 24.3% of all property purchases by foreigners, the highest figure ever recorded. This demonstrates the vital role that international buyers play in the region's property market.

This guide has been written by expert real estate lawyers from the team at **Lawoffice abogados**, with the utmost care to help you understand how the buying process works in Spain, as well as to provide you with the basic information that you need to know to buy a property in Spain.

*Amparo Pastor Albaladejo*





# 1. Steps to be taken before buying a property in Spain



1.A

## What should I check before buying property in Spain?

It is essential that at the beginning of the property buying process and prior to signing any agreement or contract with the real estate agency or with the seller (property developer or individual), the legal status of the property should be checked, which means that a lawyer who is an expert in real estate law must look over the following:

- **1. Nota simple in force from the land registry:** the nota simple is an official document issued by the corresponding land registry of the municipality where the property is located, to make sure that the property is free of encumbrances (mortgage, liens, usufruct rights, easements, urban development charges ...).

The nota simple also states who the owners of the property are, it identifies and it describes the property in detail (surface area, boundaries...), it also states whether the property is finished or is still under construction, even if it is affected by Costas (Spanish Coastal Law defining a public domain area along the coast and a further zone where special restrictions apply to private ownership).

The nota simple must be up to date, that is to say, you should request it from the land registry before signing the purchase contract, to ensure that everything is correct.

It is crucial to know how to interpret the legal information contained in this document to avoid future problems.

- **2. Certificate proving that there has not been a breach of the planning permission:** this document informs us if there is a case open on the property for



a breach of planning permission at the corresponding town hall.

- **3. Real market value of the property:** the minimum cadastral value of the property has to be calculated to make sure that the purchase price is in line with what is established by Spanish law.

- **4. Debts with the homeowners' association:** it is necessary to find out whether the property has any debts with the homeowners' association, that is to say, if the corresponding fees have been paid before the deed of sale is signed and also whether there is any type of special levy due (lift, rehabilitation of the façade...).

- **5. Debts with the local tax office (Suma):** for second-hand properties, it is necessary to find out whether the property is up to date with the payment of the property tax and/or the rubbish collection tax, depending on the municipality where the property is located.

- **6. Debts with the water, electricity and gas companies:** for second-hand properties, check to see if there are any outstanding debts with these companies before purchasing the property.

- **7. Find out if it is occupied by third parties:** for second-hand properties, check to see whether there are tenants (there is a rental contract) or for any other property, whether there are any SQUATTERS.

- **8. Others:** furthermore, if the property is a new construction, make sure that the surface areas (m<sup>2</sup>) are in line with the plans or with the municipal urban planning law.

With regard to second-hand properties also make sure that any alteration work done or even a swimming pool, barbecues, balcony enclosures, etc... have been legally declared.

In order to properly analyse all these documents, it is advisable to hire lawyers who are experts in the real estate sector.

## 1.B Purchase contract

The contract of purchase is a private document between the buyer and seller, which is valid and it obliges the signatories to comply with everything that is established in the contract.

**If you are a buyer** and you are going to sign a private purchase contract, the following points, among others, should be taken into account before signing it:

- **A) Who is going to sign on behalf of the seller:** a legal entity or a natural person? If a representative signs it on behalf of a company, it is necessary to check who the representative is and whether they have been granted power of attorney.

If the sale is between private individuals, all the owners of the property or their legal representatives must sign it.

- **B) State of encumbrances on the property:** it is essential to make sure that the property is free of encumbrances (mortgage, liens, easements, or if there is any limitation in the statutes of the homeowners' association...).

- **C) Price:** in the contract the price and the form of payment, the amounts and dates of payment must be stated very clearly.

- **D) Deposits:** when a private purchase contract is signed, a deposit is usually paid, this is known as "arras", which means that in the event that the purchase contract is cancelled later on the buyer and seller are expected to do the following: if it is the buyer who cancels the purchase contract, they will lose the amount paid, while if it is the seller who cancels the contract, they will have to return double the amount of the deposit received (*art. 1.454 of the Spanish Civil Code*).

Here a distinction has to be made between a deposit contract and a purchase contract, although the deposit is paid in both types of contracts.

- **E) Guarantee:** if it is a new property under construction, the buyer is entitled to demand guarantees from the seller for the amounts paid, as a guarantee just in case the seller does not hand over the completed property within the period agreed in the contract, the buyer can demand that the amounts paid plus the legal interest are returned, according to the law.

- **F) Expenses of the purchase-sale:** in the contract it is agreed who assumes the expenses of the purchase-sale. This point will be explained in detail later on.

## 2. Control and technical supervision of the property

It is always advisable, prior to the signing of the deed of sale, to have a technical inspection on the property that is going to be purchased, whether it is new or second-hand. This is carried out by an architect or a quantity surveyor.

The architect must visit the property and make sure that it complies with the planning permission in accordance with the municipal and regional town planning regulations. The architect will check the technical documentation of the property (plans, building specifications, extras...),

visit the building site, take photos, make sure that the work complies with the plans, in all the inspections carried out. In this way we ensure that everything is built as agreed and that everything complies with the law.

So to avoid being misled when buying your property, you should get an architect to supervise the construction of your property in Spain before, during the execution of the work and once it is finished, which is all done before signing the deed of sale at the notary's office.



### 3. Applying for a mortgage in a Spanish bank

There are many people who, when they decide to buy a property, have to apply for a mortgage in order to obtain all the capital needed to buy it.

Before applying for a mortgage in Spain a few points have to be very clear:

- **1. Decide on the amount you are going to apply for:** it is important because in addition to the price of the property you have to add the notary fees, registration, property tax, bank administration fees and also the costs of the mortgage (appraisal, opening commission ...).

- **2. You should compare several offers:** from different banks. The monthly instalments should not be higher than 30% or 35% of the income of those applying for the mortgage, because their circumstances may vary over the years and the instalments may change and rise.

- **3. Check the financial conditions of the mortgage:** once you have chosen the entity with which you are going to sign the mortgage and before committing yourself, you should check the conditions that you have been informed about thoroughly; this information is detailed in the European Standardised Information Sheet (ESIS) document.

- **4. Once the mortgage loan has been requested:** the bank will ask for a valuation of the property, so it is advisable to ask the bank for a binding offer with the financial conditions of the contract. This offer will be valid for no less than fourteen calendar days from the date of delivery.

Once the binding offer has been accepted, the bank must get in touch with the notary's office chosen by the buyer to prepare the signing of the mortgage deed.

The purchaser has three working days before the signing of the mortgage deed to talk to the notary to get advice





and have any questions answered or clarifications regarding the conditions of the mortgage.

The signing of the deeds of sale and mortgage are usually simultaneous, they can be signed on the same day, after the signing of both deeds. The notary is in charge of sending an authenticated electronic authorised copy of the deeds of sale and the mortgage to the corresponding land registry electronically.

The notary will provide the parties with a copy of the deeds, as the original mortgage and property deeds are kept by the bank until the mortgage has been paid off. It is also important to point out that when a property that has a mortgage on it is going to be sold, the seller has to cancel the loan, which means that a public deed for the cancellation of the mortgage has to be signed. The deed of cancellation of the mortgage must also be registered at the land registry.



## 4. Documentation required for buying a property in Spain



In order to buy a property in Spain the N.I.E. (Foreigner's Identification Number) has to be obtained.

● **1. NIE:** which stands for Número de Identidad de Extranjero, is a unique, exclusive personal number assigned to foreigners for tax identification in Spain. The NIE never expires, it is valid for life.

The NIE can be applied for in Spain (at the Oficina de Extranjería or Police Station) or in your country of residence (at the Spanish Consulate).

You should give a law firm in Spain power of attorney, so that they can obtain the NIE for you.

### What is a NIE for?

- Open a bank account.
- Accept or repudiate inheritance
- Buy and sell a property.
- Buy, sell and/or register a vehicle (car, motorbike, boat...).
- Rent property.
- Sign a rental contract.
- Incorporate a company.
- Open a business.
- Sign an employment contract.

- **2. The power of attorney:** is a notarised document, which means that it must be signed in the presence of a notary.

Giving power of attorney to a law firm in Spain, will make things much easier for you, because it simplifies the buying process, and it will speed things up. You don't have to be in Spain to sign a power of attorney either; the law firm can do it all online.

- **3. Passport:** it must be valid when the contract of sale and purchase is signed.

- **4. Proof of payments and accounts from where the payments are made:** in accordance with *Law 36/2006 dated the 29th of November, on tax fraud prevention measures.*



## 5. Title deed



Once the private purchase contract has been signed and all the legal documentation provided by the parties has been reviewed, a date is set at the notary's office to sign the title deed.

The title deed is a public document executed before a notary, which provides legal certainty to the parties in accordance with Spanish law. It is fundamental proof that can be used if the parties have to go to court.

The buyer normally chooses the notary where the public deed of sale is signed.

At the notary's office when the title deed is signed, the notary, together with the lawyers of the parties, must check the following:

- The identity, capacity and the legal standing of the parties.
- The status of the encumbrances on the property.
- The description of the property, which is being sold, as well as the registration number of the property in the corresponding land register must be confirmed.
- The price and the amounts already paid that go towards the price of the property must be confirmed and the last payment must be checked.
- The accounts of origin and destination of the payments must be checked.
- The payment of community fees, if any, must be confirmed.
- Proof of payment of the property tax, as well as the cadastral reference number of the property must be requested in order to make sure it matches the data on the seller's previous deed and to report the change of ownership.
- The notary will inform the parties about their legal obligations and their tax obligations arising from the sale.
- The notary will explain how the costs of the sale and purchase are shared out between the parties.

You should never sign anything that you do not understand.



## 6. Procedures after the purchase

After signing the public deed of sale, the law firm must carry out the following procedures:

- **1. Fill in the tax form 600** and pay all the taxes.
- **2. Register** the sale in the land registry.
- **3. Change the ownership of the utilities** (water, electricity, gas...), change the name of the tax payer who has to pay the corresponding local taxes such as property tax (IBI) and the bill for solid waste collection, known as the rubbish collection bill, inform the homeowners' association about the new ownership of the property.
- **4. Take out home insurance**, the most advisable thing to do is to take it out on the same day as when the deed of sale is signed.



# 7. What are the costs of a purchase in Spain?



- **1. Lawyer's fees:** according to the quote previously accepted by the client, namely the invoice for the lawyer's fees.

- **2. Notary fees:** this is the invoice for the notary's fees. The notary's fees are established by law on a scale which ranges between 900€ and 1.200€

- **3. Taxes:** taxes are established by law and they are different for the buyer and the seller. They vary according to the Autonomous Community where the property is located and according to whether it is newly built or second-hand.

- 3.a) VAT (Value Added Tax):** on a newly built property this is 10% of the sale price.

- If it is another type of property (e.g. a plot of land), the VAT is 21% on the price.

- 3.b) AJD (Actos Jurídicos Documentados) stamp duty:** if it is a newly built property, you must pay stamp duty, which is 1.5% of the sale price, if the property is in the Valencian Community.

- If the property is located in the Region of Murcia it will be 2% of the sale price.



**3.c) TPO (Transmisiones Patrimoniales Onerosas):** when the property is second-hand, Transfer Tax (Impuesto de Transmisiones Patrimoniales Onerosas) must be paid, which is 10% of the sale price, provided that the property is in the Valencian Community. If the property is in the Region of Murcia it will be 8%.

**3.d) Mortgage taxes:** in the event that the buyer needs a mortgage to purchase a property, the mortgage loan

must be registered in the land registry. This registration requires the payment of Stamp Duty (Actos Jurídicos Documentados).

However, since 2018, this tax must be paid by the bank, not by the buyer of the property.

- **4. Land registry fees:** this is the bill from the land registry charged to register the deed of sale. The registry fees depend on the value of the property, ranging between 450€ and 700€, approx.





## 8. Fixed costs for owning a property in Spain

Once you have purchased a property, whether as a resident or non-resident in Spain, there are a number of common expenses that must be paid. The expenses are as follows:

### Expenses that are paid once a year:

Household insurance  
Property tax  
Income tax or non-resident tax

### Expenses that are paid monthly:

Electricity (every month).  
Water (every three months).  
Rubbish collection tax (every six months or depending the municipality).  
Homeowners' association fees (depending on each HOA, usually fees are paid every three or six months).

**Others:** Security alarm, fibre optic...

We recommend that you always have enough funds in your Spanish bank account to cover all these expenses.

## 9. Additional services when buying a property in Spain

After you have purchased property in Spain, it is a very good idea to sign up for one of these services.

● **A) Currency exchange:** this can save you money, because sending money from your country of origin to Spain for the purchase of your property might be very expensive.

● **B) Home insurance:** it protects your home in the event of an accident or certain catastrophes, depending on what type of policy you have taken out. It should be taken out on the same day as the contract of the purchase-sale is signed.

● **C) Security alarm:** it reduces the risk of burglaries and it protects you from



having squatters. We always recommend that our clients install an alarm, especially if they are non-residents.

- **D) Processing tourist licenses:** if you rent your property for tourist use, this can be very beneficial.

- **E) Can the British buy after Brexit?:** British citizens can continue to buy property in Spain under the same conditions as before Brexit. The only significant difference would be in the case of non-resident income tax, where income would be taxed at a rate of 24% instead of the 19% that applies to EU foreigners.

- **F) Golden Visa:** investing in Spain is an exceptional means for many non-

EU citizens to obtain residence in Spanish territory. For this purpose, there is a special residence card called the “Golden Visa”, under which non-EU citizens can work and reside legally in Spain, provided they acquire real estate worth more than 500,000 Euros.

This residence visa will grant you advantages such as being able to work and reside legally in Spain, even with your spouse and children. The duration of the visa is 2 years, extendable for a further 5 years. At the end of the last year of extension, the citizen will be able to obtain permanent residence in Spain.

- **G) Will:** having a will in Spain is highly recommendable.

## What can happen to you if you do not have a will in Spain?

- More expenses will be incurred because you will need more documents (all the documents for the inheritance and the will have to be translated into Spanish and an apostille is required).
- Inheritance will be more complicated to process and manage in Spain.
- Your patrimony in Spain will be unprotected because, as there is no will, there is no legal document to serve as a basis and therefore the whole process of the inheritance deed will be much more costly and complicated, in some cases the beneficiaries of the inheritance have even lost the property in Spain, for this reason.
- The beneficiary heirs will be very confused and tension among them will increase, because there is no will to abide by, sometimes it might result in the renunciation of inheritance and the loss of everything.

# 10. Tax representation



## 10.A Tax representation

*Ley General Tributaria (General Tax Law) 58/2003 dated the 17th of December (art. 47)*, establishes that non-residents in Spain who have purchased property in Spain, must appoint a tax representative in Spain.

Both the power of attorney and the title deed usually include the name of the Spanish law firm that will represent you for tax purposes in Spain. Not paying taxes as a non-resident can be very expensive, because not only you will have to pay these taxes, but you will also have to pay interest on these taxes and very high sanctions.

## 10.B Taxes on the possession of immovable property

● **10.B-1 Non-resident income tax:** if the property purchased is not to be used for any purpose (rental, permanent residence), but is to be used as the owner's second or holiday home, the owner would be obliged to declare annually as real estate income between 1.1% and 2% of the cadastral value of the property, which will be taxed at 19% if the

owner is an EU citizen or at 24% for all other taxpayers.

For example, if the cadastral value of a property purchased by a Canadian is 100,000 euros and a rate of 1.1% is applied, the owner will have to impute an income of 1,100 euros, on which he will pay a tax of 264 euros (24% on 1,100 euros).

Please note that the above does not apply if the property is purchased in the Basque Country or Navarra, which have their own tax system.

● **10.B-2 Property tax:** the local tax levied by the municipalities of the place where the property is located must be paid annually by the mere fact of owning/owning a property in Spain. The amount to be paid depends on the location of the property, the nature of the property and its cadastral value.

● **10.B-3 Capital gains tax:** finally, please note that Spanish property owned by a foreigner will be subject to capital gains tax. However, if the value of their property in Spain does not exceed 700,000 euros, the owners will not be obliged to pay this capital gains tax.

## Conclusion

This guide is designed for the buyer to know all the steps to follow when buying a property in Spain.

This guide has been written by the team at **Lawoffice abogados**, experts in real estate and urban planning law, with the utmost care to help you understand how the whole process of buying and selling works in Spain.

The whole team at **Lawoffice abogados**, hopes that you make good use of it and we sincerely hope you enjoy the wonderful things that the Costa Blanca has to offer.

Our mission is to accompany you in this dream and make sure it becomes a reality, taking care of all the legal formalities involved in the buying and selling process here, while you and your loved ones can be enjoying the beach, the sun, and the exquisite gastronomy of the Costa Blanca.



We take care of everything! You just enjoy yourself!

# What makes us different?

**Lawoffice abogados** is an international law firm that specialises in private international law, especially contracts and property purchases in Spain, wills, international inheritance and tax representation in Spain for the Swedish, Norwegian, English and Dutch market.

At **Lawoffice abogados** we always strive for excellence, we offer you an “end to end” service, from start to finish, throughout the whole buying and selling process, always protecting your interests.

At **Lawoffice abogados** we always work applying our triple **C** values: **trust, closeness, commitment**, to help you achieve your dream of being able to enjoy the home you deserve with your loved ones.

## What can we help you with?

- Legal and tax consultations and online advice.
- International powers of attorney.
- NIE (EU and non-EU).
- Residence.
- Buying and selling homes in Spain.
- Processing bank loans.
- Tax representation in Spain, for residents and non-residents.
- Wills in all the aforementioned languages.
- International inheritance.
- Translations.
- Architect service.
- Different types of contracts.
- Setting up companies in Spain.
- Management of tourist licenses.
- Urban planning (urbanismo) and planning permission infringements.
- Home insurance and alarm contracts.
- Quatter prevention service and online police reporting.
- Traffic matters.
- Legal issues (divorces, complaints, forced sales and eviction)



**Lawoffice abogados** is a decisive, **problem-solving** firm, the **speed**, efficiency and **being close** at hand for our clients, is what sets us apart.

We have a team of highly qualified and experienced experts who solve all your legal and tax matters in Spain, they always use their knowledge and values to defend your interests and protect your assets.



# Lawoffice


---

## abogados

Pz. Salvador nº7 – Bajo.  
03203. Elche (Alicante)

C/ Pablo Picasso nº1 – Loc 6.  
03189. Playa Flamenca.  
Orihuela Costa (Alicante)

C/ Estació 38.  
07640. Ses Salines. Mallorca (Islas Baleares)

 +34 965 720 675

  +34 606 935 453

 [lawoffice@lawoffice.com.es](mailto:lawoffice@lawoffice.com.es)



[www.lawoffice.com.es](http://www.lawoffice.com.es)