

## **GUIDE TO SELLING OR BUYING PROPERTY IN MALLORCA - 2016**

Firstly, here are some common Spanish phrases and their English meanings:

<b>Vendor</b>	<i>Person or persons selling the property</i>
<b>Escritura de Compraventa</b>	<i>Title deeds</i>
<b>Exponen</b>	<i>Outline description, plot dimension and land registry number on deeds</i>
<b>Registro de la Propiedad</b>	<i>Land Registry</i>
<b>Otorgan</b>	<i>Declared price (previous sale)</i>
<b>Movistar</b>	<i>Main Mallorca telephone supplier</i>
<b>Endesa</b>	<i>Electricity supplier</i>
<b>NIE</b>	<i>Personal tax identification number for non-residents</i>
<b>Plus valia Tax</b>	<i>Tax on the increased value of the land</i>
<b>Valor de Suelo</b>	<i>Local Authority property value for calculating 'Plusvalia' tax</i>
<b>Abogado</b>	<i>Lawyer</i>
<b>Gestor</b>	<i>Accountant</i>
<b>Al portador</b>	<i>An open cheque</i>
<b>Notario</b>	<i>The Notary is the independent government official who certifies legal documentation</i>
<b>IVA</b>	<i>VAT - Value Added Tax</i>
<b>NIF/CIF</b>	<i>Company Tax/Registration Number</i>
<b>AJD</b>	<i>Stamp duty (new property)</i>
<b>ITP</b>	<i>Property Transmission Tax (similar to stamp duty)</i>
<b>IBI</b>	<i>Council property tax and refuse collection</i>
<b>Power of attorney</b>	<i>Gives your representative here authority to sign legal documents for you in your absence.</i>
<b>EPC Certificate</b>	<i>Energy Performance Certificate is required under Spanish law since June 2013</i>

The following is a guide to selling and purchasing property in Mallorca. It is not a substitute for professional advice. Prospective buyers and sellers are recommended to obtain independent legal advice.

## Vendors

When you decide to sell your property we will ask you to enter into an agency agreement with us, and become your authorised selling agent.

We will ensure that the apartment is promoted actively using the following methods:

- professional photographer to display your property for sale at its most attractive
- production of an information sheet on display in our office and distributed to interested clients
- regular placement in our prominent illuminated window display
- inclusion in our website ([www.nashhomesmallorca.com](http://www.nashhomesmallorca.com)) with multi-display photographs
- applicants find our website every day through the internet
- Local weekly advertising in the Daily Bulletin and various international German, Spanish and English magazines and property portals

When we find a buyer, we ask you to:

- Provide us with a copy of your *Escritura de Compraventa*. This is your title deed and should indicate whether there are any special conditions affecting the property and whether all the tax and registration procedures have been completed. The registration details entered on the escritura will enable a purchaser or his lawyer to check the register and see that you have a good title and whether there are any charges or encumbrances affecting the property. The register will confirm the description of the property and its boundaries.

The *Escritura* provides a property description, land registry number, plot and living area in square metres, *Exponen*. The price you paid for it (against which any capital gains taxes to be paid are calculated) *Otorgan*. The final pages should contain stamps which confirm your purchase taxes were paid, proving there is no additional liability passing to the new owners

- You must also supply a copy of the most recent annual local authority rates receipt, *IBI*.
- If you have a mortgage on the property, there will be a separate *escritura* with all the details.
- Copies of recent utility bills will be required i.e. *Movistar, Endesa* and community charges receipts.
- If you are a not Spanish you will have a *NIE (Personal Tax Identification Number)* and we will need to see a copy of your NIE Certificate. You are required to have this document when you sell.

- Provide us with an *Energy Performance Certificate (EPC)*. Regulations were introduced in Spain from 1 June 2013. As in other European countries already, EPCs will establish the energy efficiency of your Mallorca home in a bid to reduce carbon emissions. Consequently, your buyer's lawyer will insist that you have an EPC certificate and for your buyer to know the energy efficiency of the property they are buying. Similarly, as a landlord, you are also required to provide a certificate to your tenant - for a new tenancy starting after June 2013.

Basically, all properties advertised for sale or rent need a certificate. Without one, a sale or rental may become void and there may be grounds for compensation. The owner or developer of the property shall be responsible to instruct a competent certifier. Once obtained, he/she will also be responsible to keep these documents or supply them to their estate agent at point of sale or the rental of their property.

A competent registered architect with an engineer's qualification between upper or middle grade is responsible for issuing the certificate and there are many companies now offering these services. Price is 250 euros for a property up to 100m<sup>2</sup>. All prices are plus IVA (currently 21%). Nash Homes has a list of several recommended companies providing this service, so if you need advice, just email us at [info@nashhomesmallorca.com](mailto:info@nashhomesmallorca.com)

A certified assessor will inspect a house or apartment and grade it appropriately from "A" to "G". "A" is considered to be the highest level of efficiency and "G" being lowest. If you do make changes to your property you can have it reassessed to gain a better score.

## Purchasers

There are some important differences when buying property in Mallorca from a transaction in your own country. A typical transaction here will normally take the following route, though this is a guide only:

By the time you have found the right property, you will need to be ready to proceed quickly. At this stage, it will be necessary to organise your finances, undertake legal property checks and prepare a contract of sales (option contract).

We recommend that you use the services of an English speaking property lawyer in Mallorca, with good knowledge of the area you are buying in and we can recommend you to the lawyer we use. The lawyer will check that the property legally belongs to the seller, that it is free of debts and has the necessary building permits. For new construction, the same checks will be made on the land, along with a background and financial check on the builder.

As soon as you have decided which property you wish to buy, it is a good idea to find the right local bank who will offer you a mortgage. We will introduce you to the local bank manager with whom you should open a bank account and he will arrange your mortgage. (More details later).

When your lawyer has completed the legal checks on the property and your mortgage has been approved in principal, you will be invited to transfer a 10% deposit to the lawyer's client account and sign the option contract. As soon as the deposit is received, the contract will be valid.

The option contract will state the latest date for completing this purchase which needs to be carefully observed. On completion day, both parties or their representatives with power of attorney will appear before the Notary, who is a government official responsible for the execution of public documents and to ensure compliance with Spanish law. The notary acts for neither party and witnesses the signing of the *Escritura de Compraventa* (the transfer deed) which he prepares in advance. At this time the balance of the purchase money will be paid to the seller and your purchase taxes and fees will be paid. You will then be presented with the keys to your new property and a copy (*Copia Simple*) of the title deed until the formal deed is sent to you from the land registry, *Registro de la Propiedad*. At every stage, we will be on hand to co-ordinate and answer any questions you may have.

Note that all parties, buyers and sellers, must sign in person on completion day, or otherwise be legally represented. Powers of Attorney must be arranged before a Notary in Spain or before a Spanish Consular officer in your own country, who has notarial powers. A non-Spanish Notary's signature and seal must be legalised with the 'Apostille Stamp' under the Hague Convention of 5<sup>th</sup> October 1961 by a Spanish Consulate.

After signature at the Notary's office, the first official copy of the new Escritura (the original being kept by the Notary for statistical purposes and notification to the Land Registry) must be presented to the tax office within 30 working days of the date of signing, so that the transfer tax can be paid. This is arranged by your lawyer or the Notary.

## Tax and finance arrangements

All property purchases and sales attract tax liabilities. If you are a non-resident and purchasing property in Mallorca you will need a *NIE (Personal Tax Identification Number)*.

If this is your first purchase, we can help you apply for your *NIE* or it will be arranged by your Spanish lawyer and can take up to 4 weeks. Obtaining an *NIE* number does not affect your tax status in the UK.

### Finance

If a mortgage is required this can be most easily obtained here. The banks in Mallorca will loan usually up to 50% of the purchase price to a non-resident and up to 70% to a resident. We can assist you to find the bank which will make you the best offer.

The bank will request a professional independent valuation to be carried out to support the loan application and to confirm to the bank that this property is suitable for lending. The fee for this is around 1500 Euro and is paid in advance. A search is also made in the Land Register and an official certificate of the corresponding entry to check it is clear of any existing debts or mortgages.

Bank charges vary little between banks and include an opening commission (normally 1% of the loan) and a similar percentage (1%) for notary, bank gestoria and land register. So you should allow approximately 2% of the purchase price to cover mortgage expenses.

The bank will also recommend that you take out buildings insurance with them.

Spanish banks normally take approximately 4 weeks to confirm their offer and a further 3 weeks to organise the loan itself.

As a purchaser you will be required to provide copies of your P60, tax returns, recent bank statements and a credit check report.

All our local bank managers speak English.

## Lawyers

If you decide to use one, we will recommend a professional and friendly English speaking Spanish lawyer, *Abogado*.

Purchases are usually much quicker than in the UK. One of the reasons is that there is no local authority search as in the UK. Your Lawyer, *Abogado*, will conduct a land registry search which will confirm ownership and highlight any outstanding mortgages or encumbrances. This takes approximately 2 days.

A private 'option to purchase' contract is usually drawn up by the *Purchaser's* lawyer within 3 to 4 days of the agreement to purchase. There is no standard contract, each lawyer prepares his own and these must be checked carefully. A useful point is to check the final completion date, as this must be agreed by both parties before the contract is signed.

The deposit is usually paid directly to the owner's lawyer on signing the 'option to purchase' contract.

Purchases normally complete in approximately 6/8 weeks.

## Taxes

Selling property in Spain attracts Capital Gains Tax at a rate of 21% for non-residents. It is paid on the difference between the price on your deed when you bought the property and the new sales price. For non-residents it is paid in two stages – you pay a contribution towards your tax of 3% of the sales price on the day of completion and the balance of the tax is paid when requested by the Government tax department, which can be anytime up to 5 years after completion.

Residents can avoid the tax when you sell your main residence and put all the profit towards your next home within 2 years. Alternatively, you will be asked for the tax to be paid with your tax return in the first year after the sale.

Profit tax for residents is as follows:

EU Citizens:	19.5%
Non-EU Citizens:	21%

Profit tax on Spanish companies is based on 35%.

Pensioners who are resident here are exempt from tax if the property is your main residence.

Buying property in Mallorca attracts I T P, which is Property Transfer Tax, payable by the buyer to the government when you purchase in the Balearic Islands. The tax amount is graded according to the purchase price and is between 8-11% of the purchase price.

This excludes newly-constructed properties bought from the developer on which I.V.A (VAT) is applied in place of the Property Transfer Tax. It is applied at a rate lower than the standard I.V.A. and currently is set at 10% plus 1.2% stamp duty.

The ITP or IVA makes up the majority of the costs that you allow for any property purchase in Spain.

VAT for commercial properties, parking spaces or purchases of building plots from a corporation or property developer will be assessed at the standard VAT rate of 21% plus 1.2% Stamp Duty.

*Plus valia*´ Municipal Tax is a local authority increased land value tax. It must be paid by the seller as required under Spanish law and is the tax liability on the increased value of the land since last purchased. The calculation will be made by the local council and increases depending on the number of years you have owned the property.

## **Title Deeds - *Escritura***

A new *Escritura* will be drawn up by the Notary, *Notario*. The existing owner/s will have to sign although giving power of attorney to their lawyer is common practice.

N.B. to all buyers. It is important to note that all outstanding utility charges pass with the property. We or your lawyer will handle this, however it is important to ensure that this covers all of the services provided to the property and that the information obtained is correct and up to date.

## **A guide to the likely costs/fees applicable**

As a general rule it is recommended that the purchaser assumes that the additional costs to cover all tax liabilities and fees are between 10-12% of the purchase price. The following guide is not completely precise however it will provide a reasonable indication of how the fees are made up:

10% VAT plus 1.2% Stamp duty - New Property (only)

8 - 11% ITP Transfer Tax - Resale Property (only)

21% VAT plus 1.2% Stamp duty - Commercial purchase/company purchase (only)

2-3% - all properties for notary fees, legal fees, property registry (land) and bank arrangement fees.

## Who pays what between seller and buyer?

Spanish Law states that unless stipulated in the Contract, taxes and fees are split between the buyer and the seller as follows:

*The Buyer pays:* The purchase tax or IVA, Registration fees, bank mortgage fees and Notary costs

*The Seller pays:* The estate agents fees, capital gains tax, the '*plus valia*' tax and bank and registry charges to cancel an existing mortgage.

## Ongoing expenses

A prospective purchaser should take into account that there will be regular expenses affecting the property itself. These include:

### Community charges:

Although all properties sold in Mallorca are freehold, a purchaser will automatically become a member of the Community of Owners when the property is part of a development complex with shared facilities such as a swimming pool, gardens, parking spaces, roads and lighting to maintain. Community charges are usually paid in advance by direct debit and owners are required to attend annual meetings at the complex to discuss costs and vote in a new President and Owners Committee. Each complex has a separate administration company which manages the complex on behalf of the owners. Owners are expected to know and comply with community regulations and statutes.

Refuse collection and council tax (*Impuesto sobre Bienes Inmuebles or IBI*) will be charged annually by the Local Authority based on the 'catastral value' or as we would call it, property value for council tax purposes.

### Gas, water, electricity, telephone etc.

A prospective purchaser should always check that the vendor is up-to-date with all payments affecting the property and its services.

End.

Disclaimer: The information provided here by Nash Homes is not intended to be legal advice, but merely conveys general information related to legal issues commonly encountered. Tax rates and the law are subject to change. The accuracy of this general information should not be relied upon.