

Introduction

Zuuring Lawyers

Zuuring Lawyers is a multi-lingual and independent Law Firm based in the center of Marbella, Costa del Sol (Spain) which operates throughout SPAIN.

The company founder, Diana Zuuring, initially practiced law in Germany and has an in-depth knowledge of Law with experience in some of the most prestigious Law Firms in Málaga and Marbella. She is a registered Lawyer in both Germany and Spain.

Zuuring Lawyers offers one of the most focused and dedicated services available to property purchasers in Spain. They understand the concerns of being a foreign investor and it is their primary goal to give a professional, friendly and efficient service, guaranteed throughout all your transaction.

Our loyalty and constant information to our clients, as well as our specialization in local knowledge of the areas where we work, guarantee that your interests are safe and in good hands with *Zuuring Lawyers*.

At *Zuuring Lawyers* we provide a complete legal, tax and management service to both foreign citizens and companies in Spain.

We are offering legal services in the following areas:

- Conveyancing and Real Estate Law.
- Urban Planning Law.
- Construction and Urban Planning.
- Companies Incorporation, Tax and Accountancy.
- Fiscal Advice on Personal, Property and Business Taxation.
- Probate and Inheritance Law.
- Litigation.
- Residence Permit for Foreign Investors.
- Civil, Fiscal, Mercantile and Trading Law.

If you are looking for the peace of mind provided by leaving your affairs in professional hands, then please contact us, visit our website: www.zuuring.com, or visit us at our Marbella office.

We look forward to meeting you.

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The following is a general guide to purchasing new and resale property in Spain. However, this guide does not attempt to cover all legal and financial points, so prospective purchasers are recommended to seek professional legal advice.

1. Purchasing Procedure:

1.1 Choosing the Right Real Estate Agent and Lawyer

An established **Real Estate Agent** should be appointed to act for you. He will assist you in getting familiar with the area and of similar values of properties with similar characteristics in different locations. He will help locate the right property and to guide you through the first negotiations with the prospective seller.

It is advisable to engage the services of a registered and established **Lawyer** of a BAR association based in Spain. As registered Lawyers, we are protecting yours rights and we are a law firm independent from any agency. We will provide the legal guarantees for the purchase of the property ensuring that Spanish legal requirements are met and that the property is bought free of encumbrances, charges, liens or any whatsoever debts and up-to-date in the payment of any local contributions and community charges. To use a Lawyer from your home country may increase substantially your legal fees and most certainly will delay the buying process.

1.2 Reservation Deposit / Due Diligence Process

Once "the property" has been found, the purchase process begins with a reservation agreement, which will take the property off the market and also will "freeze" the purchase price.

The deposit to be paid at this stage shall be between 3,000 and 12,000 Euros. Before arriving in Spain, make sure that you have sufficient funds available.

The best way to pay the reservation fee is by credit card. It is not advisable to pay by cheque, especially if drawn on a foreign bank account, as it can take approximately 14 days to be cleared at a Spanish bank. Such delay could cost you the loss of your property. While the property is reserved we will carry out all the necessary searches required by the property and that may vary depending on the kind of property you have decided to acquire.

1.3 Private Sale and Purchase Agreement

Within approximately 14 days of the signing the reservation agreement, a private sale and purchase agreement is to be signed between the buyer and the seller (or their authorized representatives). During this time, the lawyer should have completed the investigations and searches in relation to the property and arranged with the seller the procedure for cancellation of any outstanding debts. It is a customary practice at this stage to pay approximately 10% of the purchase Price minus the reservation amount. Funds can be lodged in your own Spanish bank account and we can arrange

for an account to be opened for you or in your lawyer's escrow account. *Diana Zuuring Lawyers* have negotiated very competitive rates for their clients with a number of Spanish local banks.

1.4 Notary – Title Deed / Registration

A property sale is formally completed in Spain when the "Title Deed" ("*Escritura de Compraventa*") is signed before a Public Notary in Spain, the final payment has to be effected and the keys of the property are handed over to the new owner. If you cannot be present at the completion, you can grant a Power of Attorney to your lawyer so that all necessary procedures can be completed on your behalf.

Once the title deed is signed, the notary will fax a copy of it to the Property Registry. Your lawyer will pay on your behalf all the relevant transfer taxes and will deal with the formalities of registration of your title deed. Final registration of the title deed may take several months.

We will arrange for the transfer of the utility service accounts, such as water and electricity, and arrange that all other bills be charged by direct debit to your Spanish bank account. Connection to such provision services may take some time. Therefore, we suggest that you confirm this with your lawyer before making any plans to move into the property.

1.5 Purchasing a Property in a New Development

In the case of new constructions, it can take up to 18 months before completion and usually payments are in stages of two to four months, for example by bankers draft cheques from a Spanish bank account or bank transfer. When purchasing a property in a new development, the developer should provide bank guarantees against each payment made on account of the purchase price.

Many developers offer these bank guarantees free of charge while others charge a percentage. A bank guarantee protects your payments. In the unlikely event that the developer fails to complete the property, goes into liquidation or fails to complete on time and you do not wish to wait, all the sums paid by you will be returned in full. New properties are handed over without water and electricity connection. However, this can be arranged by your lawyer. Under Spanish Law, the developer must provide you with a liability construction guarantee.

1.6 Purchasing Costs

It must be kept in mind that all the costs & taxes involved to a property purchase transaction are approximately 10-14% of the purchase price. If you place a mortgage on the property there is an additional cost of approximately 3-4% of the mortgage amount.

Fees:

Legal fees: The legal fee depends on the service you require, plus VAT (IVA) currently charged at 21%. We have a transparent fee structure with clear advice of any charges and fees. We will give you a detailed estimate on the likely overall cost once we receive the information of your purchase.

Notary fees: The Notary fees are charged according to a fixed scale, depending upon the registered value of the property. The charges may range from 600 to 2.000 Euros.

Property Registry fees: Generally 60-80% of the notary fee.

<u>RESALE</u> Due to be paid after completion	<u>TAXES</u>	<u>NEW DEVELOPMENT</u>
0 – 400.000€: 8%		10% VAT Due to be paid at each installment to the developer
400.000 – 700.000 €: 9%	DIFFERENCE	1,5% Stamp duty AJD*
700.000€: 10%		Due to be paid at completion
Example: Purchase price of 450.000 Euros; payment of 8% of 400.000 Euros and 9% of 50.000 Euros		*AJD: Is the tax conveyance of assets and documented legal procedures.

When buying business premises, plots of land and garage spaces:
Each case should be studied individually in order to confirm if 10% or 21% VAT or Transfer Tax is applicable.

1.7 Other Costs to Bear in Mind:

Water and electricity connection charges / Change of utility contracts and organizing their payment by direct debit / Wills / NIE number / Power of Attorney / Open Spanish Bank Account.

2. Basic Required Formalities.

2.1 Power of Attorney:

We recommend you to provide your lawyer with a Power of Attorney in order to act on your behalf.

The Power of Attorney enables us to sign all the relevant contracts and documents related to the purchase on your behalf.

2.2 N.I.E.:

Is the Spanish ID number for foreigners, and it is mandatory to apply for it at the police station to purchase a property. We can apply for it on your behalf with a valid Power of Attorney.

2.3 Spanish Bank Account:

You need to open a Spanish Bank Account for your direct debits related to your utilities services and annual costs and taxes. With the Power of Attorney, we can open the bank account on your behalf and arrange for the direct debits.

3. Mortgage.

3.1 General Conditions:

Spanish banks ARE WILLING TO GIVE mortgages to non-resident purchasers of property in Spain.

The maximum period of the loan will depend upon the purchaser's age. It can be extended for a period of 30 years and granted until the age of 65 – 75 years.

The amount borrowed may be up to 70% of the Banks Valuation of the property depending upon your income and assets. You will need to provide proof of your capacity to repay the mortgage and most banks will require monthly earnings exceeding three times your stipulated monthly mortgage repayment.

3.2 Documentation Required:

- Tax return from the last two years.
- Banks reference to include telephone, fax number, name of the manager and account number.
- Bank statements for the last three months.
- Statements of current assets and liabilities.

- If employed, it is required to produce a letter from your employer stating the length of employment, salary, etc., and the last three pay slips.
- If self-employed, profit and loss accounts signed by a Chartered Accountant are required.
- Experian Report.

4. Property Costs to Bear in Mind.

4.1 Community Fees:

Each owner is responsible for the payment of his/her share of the expenses incurred in the maintenance and upkeep of the complex.

4.2 Property Income Tax-Nonresident taxes:

This tax for active rental income is rated in a % of the net income received or a deemed income based on usually 2% or 1.1% of the ratable value.

You must file a tax return with the Spanish Tax Authorities. We also offer this services as your fiscal representative in Spain.

4.3 Local Real Estate Tax (IBI):

This Real Estate Tax is based upon the ratable value of the property and can vary from town to town. In Spain, the tax "*Impuesto sobre Bienes Inmueble*" is more usually referred to as the IBI.

4.4 Utility Services.

4.5 Home Insurance.

4.6 Wealth Tax where applicable:

The first 700.000 Euros of every individual´s assets are exempt from tax.

Calculation based on a progressive scale and therefore sharing the ownership results in a lower total tax to be paid.

Example: A couple owns a property valued at 1.400.000 Euros with no mortgage: No Wealth Tax

will be paid. Mortgages or other outstanding debts on the property will be deductible from a tax base.

5. Purchasing Methodology / Ownership Structure.

The purchase of a property in Spain can be carried out through different manners:

- 1) In your own name.
- 2) In the joint names of the spouses and/or all the children.
- 3) Through a Limited Company (Spanish Company, Foreign Entity, Offshore).
- 4) *Usufruct* (Life Interest).

You should seek proper legal advice from your lawyer as each method has its own advantages and disadvantages. Everything depends on your own personal circumstances.

6. Spanish Inheritance Law and Wills.

A foreign Will is valid under Spanish Law if it meets the requirements of the Spanish Civil Code and the provisions of the Hague Convention on recognition of Wills.

However, it is very advisable to execute a separate Spanish Will for the assets located in Spain. In case of decease, if a Spanish Will has not been proved and registered with the Last Wills Central Registry in Madrid, the beneficiaries will go through a long, highly bureaucratic and expensive process in order to receive the assets in Spain.

The Inheritance procedure without Spanish Will can take up to two years and the Spanish authorities would penalize if there is any delay.

7. Selling a Property.

- 1) Capital gains tax is due to be paid on the sale of a property. The tax is calculated on the difference between the value of the property at the time of its acquisition and the value at the time of its sale. For the tax rate applicable, please contact us.
- 2) If the vendor is a non-resident in Spain, the purchaser is required to retain 3% of the purchase price and pay it to the Tax Office Treasury on account of the potential liability to Capital Gains

Tax. Your lawyer will inform you about existing exceptions. If you have no benefits on the sale, you can ask the Tax Office to refund this 3% retention.

- 3) *Plusvalía Tax*. (Added Value) this is a Municipal tax paid on the increase in value of the land since the previous sale and is fixed by the local Tax Authorities. It is calculated according to the size of the property. Payment of this tax is, by law, to the account of vendor.
- 4) Lawyer´s fees.
- 5) Real Estate commission.
- 6) Mortgage costs. If there is a mortgage on the property, you must take into account the bank costs for the cancellation of the mortgage and the notary and registry fees.