



ROSE
Financial Planning

Ready to go to the Notary? What happens next?

It is wise, due to the subtle differences between the UK and Spain, language and terminology notwithstanding, to ensure that you have independent legal advice. This certainly applies to all purchase transactions although this is probably not necessary for remortgages. We insist in covering this matter with our clients due to the potential risk to them in getting things wrong. For a relatively small sum the legal representative will give that valuable peace of mind and even represent you at all stages through to completion. We insist upon representation for all purchases. This is not so important for a mortgage on its own.

Prior to Notarization, the lender (via us for good measure) will confirm the exact terms of the mortgage. You, the client, will then be asked to sign the lender's mortgage papers (application and bank account opening forms) to concur prior to attending the Notary. This person is an individual charged by the Spanish Government to transact legally binding contracts and therefore will be a highly qualified, professional and busy individual who will not take kindly to simple oversights. Accuracy is important for all parties anyway so it is best to double and treble check the details and numbers. Hence seeking financial and legal advice.

All lenders insist on a current account being opened in order to collect monies to meet the mortgage payments monthly. Hence, it is not uncommon for mortgage application forms not to be signed at inception because more weight is added to the pre-completion meeting with the bank, and, of course, the Mortgage Escritura will be executed at the Notary.

The legal process differs massively here in Spain to the UK for example. In the UK solicitors simply exchange contracts or mortgage deeds, and are charged with their registration, here it is pretty much all done person to person.

Mob: 0034 677 874 948 (including evenings)

E Mail: mark@rosefp.com

Web: www.rosefp.com

Mail: Apartado Postal No. 2851, Avda Descubrimiento, Vera Costa, Vera 04621, Vera, Almeria, Spain

For a remortgage, for example, in attendance at the Notary will be;

- The Notary himself
- Any legal advisor
- RFS representative
- A representative of the bank
- The applicant(s), including the 'guarantor(s)'

The above all have an input into the process.

You, the client, will be required to be there in person with your passport, residencia and NIE for ID purposes, as will the guarantor/ co applicants. If you or the co applicant/guarantor are not present, then the original Power of Attorney document, from your solicitors, Rose FS or any third party, will be needed.

In that meeting, the Notary will examine the Escritura (the Deeds of the property) and the Nota Simple (Register of charges) and then the Mortgage Deed itself. The Notary will then ask you, the applicant, and the bank to sign the Mortgage Deed.

The bank will carry or have sent all the necessary paperwork for the meeting and will also have pre-prepared any cheques payable to third parties (such as taxes due, existing lenders, etc) ready for distribution immediately. These would have been detailed and discussed by the bank with us and you, the client, in advance at the pre-notary meeting. This meeting with the bank can be arranged at any time right up to the day of the Notary, if necessary.

After the Notary, you will need to make any disbursements in conjunction with the bank that may not have been actioned at the legal completion itself. For example, if you still have to settle our Broker Fee or perhaps make payment to builders for home improvements, etc. Remember that getting a simple thing like a cheque book takes time, so that early pre-notary meeting with them has a purpose! Get your cheque book and cards ordered early!

Also after the Notarization, the relevant changes will need to be made to the Register to reflect the contents of the Mortgage Deed (and, if there is a purchase/sale involved, the new owners on the revised Escritura). These formalities can be taken care of by the legal representative of the client, with the bank and with the relevant authorities.

As you can see the process of arranging and completing on a mortgage is, in some ways the same as in the UK but, in others (such as the meeting with the Notary) very different.

MAM 05-05-08

Mob: 0034 677 874 948 (including evenings)

E Mail: mark@rosefp.com

Web: www.rosefp.com

Mail: Apartado Postal No. 2851, Avda Descubrimiento, Vera Costa, Vera 04621, Vera, Almeria, Spain