



# ROSE

Financial Planning

## **Spanish Property Purchases– The way to do it right and to protect yourself!**

When you buy a property in Spain there are 2 ways to do it; the right way and the wrong way!

In my experience, far, far too many people buy in Spain and simply forget their life experiences in the UK. Many have acquired property back home and, despite the occasional pain that is witnessed there, these experiences are brushed aside in the expectation or hope, that the purchase here, perhaps of their dream home, is more straight forward. This simply not so! This is not the UK; it is Spain! You cannot make general assumptions by using your UK knowledge; it often does not apply! And it is fraught with negative financial implications if something goes awry!

It's an often used phrase here; that 'buyers leave their brains on the plane'! It is not mine although I am minded to agree. In recent articles I have constantly drummed home the need to slow down, remove emotion and stick to a process. The consequence of doing it the wrong way is costly and emotionally draining. Do not be a fatality through lack of planning!

So, as a further guide to a would-be purchaser, I am now going to break down the various parties to the transaction and suggest how you should use each and at what stage in the process. The article is in two parts, so make sure you pick up on Part 2 in the next edition.

### **Part 1**

#### **1) A Tax Planner and Representative, Financial and Mortgage Advisor**

It may seem that I am self-promoting here but I am not! There is a fundamental difference in buying here than in the UK, especially if you are a cash buyer. Here, every purchaser who uses even an element of a £ capital base and uses £ income to fund a Euro € mortgage needs to understand certain pitfalls and benefits available to them.

##### **i) Residency versus Non Residency**

This translates to whether you are happy to have all of your worldly income potentially taxed in Spain as opposed to the UK or elsewhere. But remember, if you live in Spain for 183 days or more, there is no choice; you HAVE to be a tax resident here! But that's not necessarily bad news! There are benefits to be had!

- a) Mortgage Interest Tax Relief
- b) Capital Gains Tax (CGT) allowances on the main home
- c) Superior Inheritance Tax (IHT)

So, making that rather fundamental decision is critical in the long term financial plan. Now you see some of the reasons why a Tax Planner and general Financial Advisor is must right at the start of the process.

##### **ii) Mortgage versus No Mortgage**

If you have sold up in the UK or have the £ capital to purchase your property here outright there is an easily understood sentiment that suggests that you will not want a mortgage. Perhaps for the first time in your life, you have the ability to be 'debt free' but that is a British thing (as I have suggested already) and should not even come into the equation in buying here.

I have covered some of the reasons already in the Residency vs Non Residency section, but there are even more sensible, logical and financially attractive benefits to ALWAYS (yes, ALWAYS) having your property mortgaged. Let's cover them off;

a) £ returns versus the Euro mortgage rate.

The differential between what you can earn on a £ investment versus the pay rate on a Euro mortgage is not less than 1% subject to just where and how that £ is invested. It can be an awful lot more than 1%. If you inject £100,000 where a mortgage could be arranged, over a 20 year term, that differential could generate an incredible gain;  $20 \times 1\% = 20\% = £20,000!$

b) Exchange rate mitigation.

If your capital and income base currency is anything other than the Euro, the asset you are buying, the property, is in a foreign currency, the Euro. That implies an intrinsic risk if the Euro depreciates or falls in value against your base currency. This can be controlled by automatically reducing the amount you have invested by using a mortgage and NOT your capital. Your equity in the property is reduced; not the upside potential of the property appreciating in Euro value.

c) Inheritance Tax.

I have covered this briefly already, but there are several fundamental differences between the IHT regime in UK and Spain that are easy to 'assume' are the same and where the impact is profound;

- There is NO spouse exemption on the family home. All property is deemed held jointly and IHT applied thereon.
- The allowances are very low in Spain AND lie with the beneficiary and NOT the deceased.
- Non Residents have little in the way of allowances whilst Residents can get more favourable treatment

This brings me again to a rather fundamental reason why a Tax Planner and Financial Advisor must be consulted BEFORE any decision is taken to buy; ownership. In whose name should the property be purchased? It's easy to assume that it will be Mr & Mrs, but is that necessarily the most financially attractive?

As an extension of this theme, a Spanish Will is an absolute must when buying here. Spanish Intestacy Law (where you die without a Will) is very different from back home so, if you want your assets here to pass to specific beneficiaries who do not fall into line with Spanish Law, best you do something about it!

d) Income Tax.

Residents can get relief on mortgage interest offset against income. That relief is subject to your age and circumstance and is a real attraction. Do you remember the old MIRAS system back home that disappeared in the early 70's and how that was so sorely missed when it was taken away. An equivalent is still available here!

e) Capital Gains Tax (CGT).

Non Residents are still dealt a harsh hand here and this, like IHT, is under some scrutiny from the European Parliament. Non Residents have 3% of the sale price withheld to meet up to 18% CGT on the gain, the same as a Resident. But a Resident

can avoid this tax if the profit is reapplied to another property purchase. Not so for a Non Resident! That is a fairly hefty price to pay! Again, another good reason for exploring the concept of Spanish Residency.

f) Your Purchase Price and Budget.

Rather obvious this...but is it? Bearing in mind the potential for using a mortgage to leverage or gear up the purchase price using some or all of your available equity, what is the most suitable banding for the spend? Cash buyers, perhaps because they do not want a mortgage, may unnecessarily limit the target price and end up being dissatisfied with the end result. Also, the total cost of buying is often misunderstood. As part of a review of the whole bigger picture, an absolute must is to visit every single expense that you will encounter. If you have to pay for it, do you not want to know what it is, why it's there and, as important if not moreso, how will you be able to meet such?

g) Legal Property Ownership Paperwork.

This is not the domain of a Financial Adviser but, as we are often and, for reasons stated, should be involved at the outset of the whole purchase ideal, we find that we need to explain the pitfalls that befall so many home owners here. Especially due to the vagaries of historical land and property registration in Spain. If a preferred property has been found, it is an absolute must for certain searches to be performed before there is any financial commitment. That should include even the initial holding deposit (normally Euros 3,000) has been paid over. It's a simple thing to do and easy to ignore in the emotion of it all! This issue may be the last on this list, but it is anything other than last in importance!

So, there we are! Numerous reasons why you really, really do need to consult a Financial and Mortgage Adviser at the front end of the purchase programme.

Stay with this for, In Part 2 next time, I will cover off the other parties and why advice and action is necessary from them to give you a rounded professional input to get the best out of your acquisition.

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## **Spanish Property Purchases– The way to do it right and to protect yourself!**

### **Part 2**

In Part 1 of this two part article, I covered off the many reasons why a Financial and Mortgage Adviser is an absolute must as THE first party you talk to when contemplating buying a home or another property in Spain. If you missed the last edition, get a back copy or contact Rose FS for the details.

In summary, these are the areas that I covered;

- a) £ returns versus the Euro mortgage rate.
- b) Exchange Rate mitigation
- c) Inheritance Tax (IHT)
- d) Income Tax
- e) Capital Gains Tax (CGT)
- f) Purchase Price & Budget
- g) Legal Property Ownership Paperwork

You can see by way of the content the importance of getting it right at the outset; sometimes errors and oversights made at the front end are not recoverable or, if they are, they come at a cost! So 'slowly, slowly! Catchy Monkey' as the saying goes!

The process of buying a property in Spain is anything but simple. It never is no matter what part of the world you are in. Each country has its own unique little foibles, so it is important to locate and rely on those professionals that know the system and, most importantly, understand the holes that you can fall into if you get it wrong. But let's not just be negative. These same professionals can deliver a lot of pluses which you will probably be unaware of!

So, having decided what you will be able to buy, how the property will be financed and who will own it, who else bar the Financial Advisor do you need to consult?

### **2) Conveyancing Solicitor or Abogado**

If you were buying in the UK, before you committed a penny by way of financial obligation, you would automatically contact a solicitor or conveyancing specialist. The Estate Agent you are buying through would ask you for such as they would want that information to include in their own summary of the parties which is then provided to everyone involved; the purchaser, the vendor, and both sets of solicitors.

No such automatically produced document exists here although, in my humble opinion it should, but that does not preclude the need to have all of those parties! So you need a specialist conveyancing solicitor.

And, arguable, does it not make more sense to find one (by referral I suggest) and agree terms in advance. Also, ask them to point out the important things to watch out for; they will have countless stories to tell you and believe me when I say they would love you to have a trouble free purchase! Aggravation may be a common thing to deal with in their every day working lives, but that does not mean that they want! Quite the reverse! They would welcome a process that allows them to 'lay down the law' in what to do to make their lives trouble free!

Once you found your solicitor (I suggest a registered or licensed solicitor as opposed to someone who is not) and agreed terms, please rely on them from that moment on! By that I mean there is no point on having a professional looking after you if you are going to not give them the ability to serve you to the best of their ability. When you have found the ideal property, back off from the heat of the negotiations and let them do their job!

A good solicitor will insist upon them being involved and will also tell you that, before a single cent has been paid as a holding deposit (the usual Euro 3,000) they must have the opportunity of checking the validity of the property ownership. This translates to them seeing copies of;

- The existing Deed or Escritura. This is a complex one, so I will not go into detail. Needless to say that, in order for you to acquire clean ownership, it needs to be clean with the vendor, the seller. If he has poor title, there could be issues in tidying that up for him to pass it to you. You do not want to get caught up in a mess that is not yours!
- The Land Registry Search or Nota Simple. This will confirm the property ownership, description, any outstanding mortgages or charges, and any restrictions.
- Planning Permissions and Building Licences.

These are absolute 'must dos' by the solicitor. This is precisely what happens in the UK except they rely on the Land Registry Search rather than physically seeing the deed. That is because title in the UK is almost 100% accurate and the Land Registry will reflect that. Here, especially in Almeria, because of the history, this is quite the reverse, so each case comes with a potential threat attached. You will not have the expertise to check this; your solicitor will.

And don't forget that Spanish Will! A must do again!

### **3) Estate Agent or Developers direct**

It is only after you have consulted with a Tax Planner and Financial Advisor and a Solicitor that you should begin your property search. You will then be better prepared for the budget of and the foibles attached to the target property purchase. Of course, you can make general enquiries to understand what is available in certain areas, and the attractions of that part of the world, but you should refrain from wasting your and their time until you become a serious buyer. And you can only do that once you have explored all that I mentioned before.

Estate agents and developers do not like time wasters. They give you a lot of commitment and it is simply not fair nor reasonable to use them for general sight seeing when you do not know what you can afford, how to put it all together, etc. There is no point in them showing you a property that is out of your price range, for example!

### **4) Currency Exchange specialists**

Rather than simply relying on your bank, consider one of the pooling mechanisms for exchanging your lump sum or monthly transfers to and from Spain.. They have the ability of bulk buying in the money markets and can help reduce bank charges. Again, over time, they can help save you a relative fortune!

So that's it! Your guide to doing it right and to protect yourself, avoiding nasties, and potentially saving you a lot of aggravation and money along the way!

**Mark Mountney, the proprietor of Rose Financial Planning, is a specialist mortgage brokerage and Independent Financial Advisor. He is a fully qualified mortgage and financial adviser in the UK with some 10 years experience in managing his own firm. Mark was also a founder of The Association of Mortgage Intermediaries, the trade association for mortgage advisors in the UK with 20,000 members. See [www.rosefp.com](http://www.rosefp.com) or call 0034 677 874 948.**