



## Finding your Property

Your first step should be to find a Government licensed real estate agent 'mediador imobiliaria' whose conduct is controlled by a legal framework of rules. Take time to consider and then specify to your agent exactly the kind of property you require. The better you can define your property, the better are your chances of early success.

## You have found the right one...

The best advice is to get a good lawyer and surveyor to make sure that the property is correct - both legally and structurally. It is not a good idea to try and make savings in these areas. For those using a bank or mortgage lender, they will be able to provide their own recommendations.

Your real estate agent will help you in choosing a lawyer and will of course give you lots of advice in these areas. Most agents will have their own recommended list of experts chosen from those who have provided a good and reliable service in the past.

## The process of buying

The process, if it does not involve an off/on-shore company, consists of two distinct stages:

The promissory contract (contracto promessa de compra e venda) and the final deed (escritura).

## The Promissory Contract

This is a legally binding contract between both parties, provided all signatures are verified by the local public notary. On signing the contract, the buyer pays a deposit, which ranges from 10% – 25% of the agreed purchase price. This deposit is in principle non-refundable unless specifically stated in the contract.

If the buyer breaks the contract, he loses the deposit. When the seller breaks the contract, he is legally obliged to return the deposit plus compensation, which is usually equal to the sum of the deposit. It is acceptable for both parties to ask for a copy of the contract, translated into their mother tongue.

The contract covers a number of points including the following:

- Confirmation of the precise identity of the vendor and the purchaser.
- Exact description of the property.
- Confirmation of clear title of ownership.
- Agreement for payment and terms of deposit if the contract is broken.
- Agreement concerning stage payments if applicable.
- Confirmation of date of completion of sale.

Before the contract is signed, the vendor has to produce all the relevant paperwork relating to the property to show to the buyer or his/her lawyer, so that necessary searches can be made to ensure there are no outstanding debts like rates or bank loans against the property. The habitation licence has to confirm that the property is for residential use.

## The final deed

This is the official document of the transfer of the property and has to be signed in the office of the official public notary. He will require documentary evidence issued by the local tax authorities (Departamento das Fianças) that the appropriate property transfer tax (IMT) has been paid. If the property is part of a condominium, an associated condominium agreement will also form part of the

final deed. Unless the buyer understands Portuguese, the notary will insist on a verbal translation into the buyer's mother tongue. When both parties have signed the deed, the balance of the purchase price is then paid to the vendor. The property is then to be transferred to the name of the new owner at the land registry office (Conservatório Predial), preferably by the buyer's lawyer.

## Portuguese taxation system of a property depends if the:

1. Ownership is in a private name. Property purchase tax known as IMT (formerly Sisa Tax) is payable upon purchase, this tax is applied at banded rates. Annual Rates (IMI) are at the lowest levels, approx. 0.5% p.a. There are significant tax breaks for Portuguese residents: on sale, Capital Gains can be rolled over to a new property purchase in Portugal. Also, there are exemptions of inheritance tax to direct family members. No Corporation Tax is payable but of course standard income taxes (15%) etc are due in respect of rental income. Non-residents must now have a fiscal representative (Portuguese Accountant), which has an annual cost.

2. Ownership is Corporate. The recent changes to the law with regards to corporate ownership have once again made the concept and thought of enjoying the benefits of an offshore haven very feasible and often beneficial to the purchaser. The annual municipal tax (IMI) levied on property owned by companies based in tax havens, here blacklisted has now been reduced from 5% to 1%, which is a massive reduction, but still, worth nothing that it is double the rate applied to non-offshore held property! When purchasing a property using a corporate entity, there is no IMT to pay on the purchase.

**General Advantages of Company Ownership:** on a sale (of shares), the buyer does not need to pay IMT tax, inheritance taxes and capital gain taxes can be avoided or indefinitely deferred and company ownership can give anonymity. With regard to avoiding capital gains taxes, it is worth mentioning that this is effectively just a way of deferring the payment of tax as the company still retains a contingent liability of tax, which applies if and when the company ever sells the property. Buyers therefore often will wish to negotiate some allowance in the price to allow for their taking over this contingent liability.

**General Disadvantages of Company Ownership:** applying to all company ownership regimes are that you have to pay company set up costs (say £700) and annual management fees and fiscal representative costs apply (say £800 p.a.).

## The purchasing costs

These can be broken down as follows:

- Surveyor costs approx. ¼% - ½%.
- Lawyer costs approx. 1% - 2%
- Notaries/Registration Fees amount to approx. 2% of the declared purchase value.
- IMT (previously SISA Tax and similar to the UK stamp duty). Increases in bands. (See table below)

## IMT Taxation table:

Value of the property transaction (in Euros)	% Tax	Amount to deduct
under € 87.500	1%	-
From € 87.500 to € 119.700	2%	€ 875
From € 119.700 to € 163.200	5%	€ 4.466
From € 163.200 to € 272.000	7%	€ 7.730
From € 272.000 to € 521.700	8%	€ 10.450
Over € 521.700	6% (flat rate)	
<b>Rustic Land</b>	5% (flat rate)	
<b>Commercial / Building Land</b>	6.5% (flat rate)	
<b>Blacklisted Offshore Companies</b>	8% (flat rate)	

## **Property Management and Rentals**

You should consider how much of the year you would spend in occupation. If the property is to be used as a second home, it is likely that you will be absent for long periods. In this case, it is recommended that you find a reliable Property Manager to look after your investment. There are several good Property Management companies around who will pay your bills, organise the cleaning and maintenance of the property, garden and pool. If you consider letting your property, it might be an excellent way of paying all your property upkeep expenses.

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