

Useful tips for selling property in Majorca

As at: 2015

To ensure that the sale of your property in Majorca goes through smoothly, you should bear a few things in mind. For instance, since 2013 all Spanish properties that are put up for sale must have an energy certificate. The costs for the “**Certificado de eficiencia energética de edificios existentes**” depend on the size and nature of the property.

Properties without a valid certificate may not be sold privately or marketed through an estate agency. Violation may be subject to a fine of up to € 6,000. The rule applies both to online advertising and to adverts in print media. Porta Mallorquina Real Estate works in this area with reputable businesses who can issue you the document you need to market and sell your property.

For a smooth sale, you should have the following **documents relating to your property**:

- ✓ The **Deed of Purchase** (*escritura pública*) which is recorded in the Land Registry.
- ✓ **Land Certificate** which provides information about ownership, encumbrances or charges (*nota informativa simple*).
- ✓ **Contracts** with electricity, water and other utility companies and receipts for payments made to them.
- ✓ The receipt confirming that the **property tax** (*I.B.I.*) has been paid.
- ✓ The **certificate of habitation** (*cédula de habitabilidad*) and proof that all registrations have been made for the property.
- ✓ **Energy certificate** (*Certificado de eficiencia energética de edificios existentes*).

If furniture is to be sold with the property, all items should be listed in an inventory.

Option contract

As a rule, before a property is sold, the seller and the potential new owner first sign an **option contract**. When they do so, the future buyer makes a deposit – usually 10 % of the purchase price – which is then offset against the purchase price when the Deed of Sale is signed at the notary's office. If the buyer withdraws from the purchase, he loses his deposit; where the seller withdraws from the purchase, he is required to pay the buyer an amount equal to twice the deposit. In order for a sale to be effected, a deed must be signed in the presence of a notary. To this end, both parties to the contract must be in attendance or be represented by a legally appointed third party.

Sellers who do not have their main residence in Spain require an *N.I.E.* (*Número de Identificación de Extranjeros*) – an ID number for foreigners – to sell their property. This *N.I.E.* can be applied for personally in Spain at the *Comisaría* (i.e. the police), or abroad at the competent Spanish Consulate-General in the applicant's country of residence.

This application may now once again be made through a legal representative, so that by issuing a notarised Power of Attorney with apostille, buyers or sellers living outside Spain can authorise a third party in Spain to apply for the ID number. In order to make the application, a certified copy of the individual's ID document with apostille must also be submitted.

Duties of the estate agent

The estate agent provides you with a realistic market-driven evaluation of your property. He takes care of the professional listing of your property, handles the marketing, organises viewings, and introduces you to serious potential buyers. The estate agent is not permitted to offer you legal advice, so if legal questions arise it is recommended that you consult a solicitor. The estate agency fee in Majorca is usually 5 % of the sale price.

If any licences need to be obtained retroactively for your property, depending on the circumstances it is recommended that in addition to a solicitor, you also involve an architect who can deal with the authorities on your behalf.

Taxes on the sale of a property in Majorca

Revenue from the sale of a property in Spain is subject to Spanish tax law. During and after the sale of a property, the following taxes apply in Spain:

a) Taxation on capital gains of non-residents

A capital gain is the difference between the acquisition value and the sale value of the property. The applicable tax rate is currently 21 %. However, since the Spanish tax authorities wish to ensure that they also obtain this tax from non-residents, 3 % of the sale price is already withheld as part payment of this tax when the Deed of Sale is signed at the notary's office.

b) Taxation on capital gains of residents

In the case of a person resident in Spain, capital gains are also taxed at a rate of 21 %, but unlike with non-residents, no part payment is withheld at the notary's office.

c) Taxation on capital gains of a legal person

Capital gains for a legal person, e.g. a Spanish *S.L.* (limited company), are the difference between the current market value and the net book value of the transferred asset. In general, the tax rate of 30% is the same rate as for corporation tax.

d) Special tax / Tax on capital appreciation

This tax (*Plusvalia*) encompasses the increased value of the land on which the property stands, but not of the buildings on the land themselves. It is only payable on the transfer of properties on urban land (designated as “*urbano*”). Rural land (designated as “*rústico*”) is not subject to tax on capital appreciation. Although the seller is liable to pay this tax, in practice it is frequently paid by the buyer.

The Porta Mallorquina Real Estate Team is at your disposal if you have any further questions about the sale of property in Majorca. You can call us seven days a week on +34 971 698 242 or send an e-mail to info@portamallorquina.com. More information about Majorca and about properties in Majorca is available in our blog at <http://www.porta-mallorquina.de/blog/>