



# **Legal Formalities & Costs Involved in Purchasing Property in Spain**

Source: [www.andalucia.com](http://www.andalucia.com)

## Table of Contents

<b>Mortgages</b>	<b>3</b>
<b>Buying Property</b>	<b>3</b>
<b>Property Purchase Costs</b>	<b>4</b>
Notary Fees & Property Registry Inscription Fees Plus Valia	
<b>Other Costs Involved in Owning Spanish Property</b>	<b>5</b>
Local Rates Rubbish Collection & Water Rates Community Fees Insurance Gardeners Maid Services Electricity Telephone	
<b>Buying Off Plan</b>	<b>7</b>
<b>Property Taxes</b>	<b>7</b>
IBI Impuesto Extraordinario sobre el Patrimonio	
<b>Special Consideration for Non-Resident Property Owners</b>	<b>8</b>



## Mortgages

Resident or not, the legalities and steps involved are very similar whatever your personal reason for the purchase, including any necessary mortgage.

For example, the amount you can borrow against the property is generally up to 95% of the value or purchase price (whichever is the smaller) for residents and up to 70% for non-residents. In order to check that the purchase price is appropriate and fair, the bank will request a professional evaluation carried out by an independent firm. This comprises a detailed report in respect to the quality of construction and material used, the situation, state of repair, etc of the property and, most important of all, its market price which takes all of the above into account.

The fee for this is around 150 Euro. A search is also made in the Land Register and an official certificate of the corresponding entry to check it is clear of any existing liens or mortgages. Additional fees are fairly fixed and vary little between banks. For example notary fees are established at a percentage of the loan. Thus, if the mortgage is 60.000 Euro, the notary fees will be 500 Euro, etc. The Land Register fees, again, depend on the amount of the loan and for the same mortgage amount you can expect to pay approximately 250 Euro.

The fee for the actual administration is approximately 150 Euro and they are responsible for paying the necessary taxes on your behalf, as well as undertaking the above-mentioned Land Register registration. Finally, the amount of the insurance is determined according to the minimum evaluation received and the current cost is approximately 10 euro per 10.000 Euro insured.

Clearly, when there is little to choose from in as much as actual costs and mortgage percentages are concerned, what does differentiate one financial institution from another is the quality of service. Obviously, it helps considerably if you have a prior relationship with the bank in question. Beware of commission! On a variable mortgage this should not exceed 1% of the total mortgage amount.

A final note of optimism – Spain has the most advantageous mortgages in Europe. True, some countries have lower interest rates; however the base reference they use is higher than the Spanish.

## Buying Property

We always recommend that a purchaser of property in Spain retain a qualified solicitor to represent him. Should one not already have a solicitor, we can recommend one of several who are specialized in property conveyances and are fluent in English and other languages.

Purchasing property in Spain is a relatively straightforward procedure. The "last word" in property ownership is the PROPERTY REGISTRY, which will show immediately if the seller owns the property free of liens and encumbrances. Most frequently, unless an immediate cash payment of the full purchase price is made, a private contract of purchase is drawn wherein the details of the purchase are reflected -- legal description of the property, purchase price, form of payment, date



of completion, date of possession, etc. Upon signing the private contract, a payment on account of the purchase price is always made which can vary substantially according to the terms of the sale and the date of completion. A quite normal deposit for completion within 30 to 60 days would be 10% of the agreed purchase price.

When the entire purchase price is paid for the property, the seller will issue the public deed of conveyance (ESCRITURA) to the purchaser, free of liens and encumbrances. This deed is issued before a Spanish NOTARY, is passed from the notary to the TAX OFFICE to be assessed for stamp duty, and then presented to the PROPERTY REGISTRY for inscription. Should it be required, a provisional inscription in the REGISTRY can be made immediately upon taking title.

### **Property Purchase Costs**

6% TRANSFER TAX (I.T.P.) payable by the buyer for the purchase of any Real Estate (villas, flats, land, commercial premises, garages), provided the vendor is not a developer or normally trading in the business of resales.

7½% (7% VAT and ½ % STAMP DUTY) for any VILLA, APARTMENT or GARAGE annexed to an apartment where the vendor is a developer, promoter or habitual trader in these properties.

16½ % (16% VAT and ½% STAMP DUTY) for PARCELS OF LAND, COMMERCIAL PREMISES, or COMMERCIAL GARAGE SPACES, where the vendor is a developer, promoter or habitual trader. This covers virtually all NEWLY URBANIZED LAND PARCELS and NEWLY BUILT COMMERCIAL PREMISES, and resales only where the vendor falls in one of the above categories.

### **Notary Fees & Property Registry Inscription Fees**

Notary fees should amount to no more than €902/£566, although the cost increases according to the number of pages or complexity of the title deed (eg. transcription of statutes, payment in stages). As an example, an apartment costing €300,506/£186,314 will cost around €481/£298 in notary fees, whilst a villa costing €601,000/£373,000 will cost around €601/£373 in notary fees. Any higher than this amount, the fees go up very slightly: eg. a €1.202, 000/£745,000 villa would cost around €661/£410 in notary fees The property registry inscription fees run at 65% of the notary fees.

### **Plus Valia**

An "added value" tax based upon the increase of the Town Hall Index value of the price per square meter OF THE LAND from the prior (vendor's) purchase to the present sale.

This tax corresponds in principle to the seller, but, in common practice, is often paid by the purchaser. As there are several variable factors used in calculating this tax (location, area of land, building volume permitted, period of ownership of the vendor), the amount payable can vary substantially and should be verified before proceeding with the purchase. The basis of the calculation remains the same whether or not the land is built upon.

In summary, the total official costs involved in purchasing property should be less than 7%, more or less than 8½% if VAT is paid of the purchase price, plus the PLUS VALIA if applicable.



## ***Other Costs Involved in Owning Spanish Property***

### **Local Rates**

Local rates are payable annually, and are calculated from the cadastral or rateable value of the land assigned by the Spanish Tax Office. The cadastral value takes into account the value of the land plus the value of the building, according to type, location, and usage. Upon this value, each municipal Town Hall decides on the percentage to be charged in respect of local rates. In the case of Marbella, the formula applied is 0.85% of the rateable value of the property, which is almost always far less than its true market value.

**Examples:** A 2 bedroom apartment in the beachside complex of Puente Romano Phase II, which is in the heart of the "Golden Mile" paid 123.691 Ptas. in 1998 rates (\$669) (£467). A free standing villa in the luxury Ancon Sierra development, again, in the heart of the "Golden Mile" paid 127.332 Ptas. in 1998 rates (\$688) (£480). A large beachfront estate with some 10.000m<sup>2</sup> of land paid 769.254 Ptas. in local rates in 1998 (\$4,158) (£2,903).

### **Rubbish Collection & Water Rates**

The rubbish collection rate is applied by the Town Hall according to the property and payable every 6 months. Water consumption is calculated by the water meter and is payable every 3 months. Payment can be made directly at the Town Hall or by bank with direct debit instructions.

### **Community Fees**

As a general explanation, the COMMUNITY OF CO-PROPRIETORS or HOMEOWNERS' ASSOCIATION is a legal entity comprised exclusively of the owners of the apartments in a building, or villas on an estate. The purpose of the Community is to own and maintain the COMMON ELEMENTS of the building or estate in question, and a homeowner participates in the expenses of the community on a pro-rata basis with the other owners. Usually his percentage of the costs is fixed by the size of the apartment, or plot, divided by the total area of all the apartments or plots.

A budget for the annual community expenses is presented at the ANNUAL GENERAL MEETING OF CO-PROPRIETORS, and the owners or their representatives must approve the budget by majority vote of those present at the meeting. Expenses can vary substantially, according to the services required and normally include salary and social security of the hall porter, common garden maintenance, lift maintenance, repairs to building, refuse collection, electricity for lighting common areas, insurance for building, security if required, and administration fees. The President of the community must, by law, be an owner and serves without pay.

A typical 2 bedroom apartment in a building or area with hall porter, swimming pool, and a small garden, could cost between €96/£60 to €180/£110 per month in community fees, but could go up to €360/£223 in a high luxury building with a large community staff and many services.

In the case of an individual villa, community fees are often less as the private gardens and exteriors of such properties are not maintained by the community.



## **Insurance**

A standard insurance cost for a €300/£189,000 apartment with contents valued at €48,000/£30,000 would be €280/£175 per year. One should note that in an apartment building, the Homeowners' Association is required to insure the building for its reproduction cost. Therefore, the individual's insurance policy for the apartment need not cover the entire value of the apartment, but only damages to the interior of the apartment, its contents, and third party liability. It is also advisable to insure the building at first risk in case the Community insurance is not comprehensive. For a villa of €900,000/£558,000 with contents insured at €180,000/£110,000 the annual insurance would be in the area of €1,550/£960.

## **Gardeners**

The upkeep of the garden is essential to the maintenance of your property and will of course depend on the type of home. As a guide, the hourly rate is about €12/£8. Apartments and townhouses have the communal garden areas tended by a contracted gardener and the cost is included in your community fees. A villa on ¼ acre plot might require a gardener a few hours a week, which costs approximately €150/£93 to €240/£150 per month. A large parcel of a full acre or more may require a half or full time gardener costing from €270/£170 part time to about €601/£373 full time per month. Social security is an additional cost to full time wages and runs in the area of 40% of the salary.

## **Maid Services**

Generally available throughout the Marbella area on a full time salary or hourly basis. Full time salaries range from €421/£264 to €601/£373 per month plus approximately €120/£75 per month social security contributions. Part time help is usually charged by the hour with rates varying from €6 to €10 / £4 to £6.

## **Electricity**

Charged bi-monthly with minimum rates applicable (whether you are in residence or not), varying according to the amount of electricity your house could potentially use with all power and lights turned on. The minimum charge for an apartment might be between €24 and €36 / £15 and £23 per month; for a villa perhaps €60 to €90 / £37 to £55 per month, depending largely on the electrical installation. Usage is €0.08 / £5p per Kwh plus tax. It is therefore difficult to give guidelines, but rates are slightly higher than in many European countries. But with all the sunshine in Marbella, one uses less lighting and heating than in other countries!

## **Telephone**

Charged also bi-monthly. Standard rates vary according to equipment installed, but can be in the region of €14 / £9 per month including a touch-dial telephone. Direct dial calls area assessed on a counter system. A 3 minute call (daytime business hours) to any European Community country, direct dial, presently costs about €1.50 / 93p.

## Buying Off Plan

Buying off plan - or at some point during the construction process - is a popular option in Spain as the earlier you buy in, the less expensive your total purchase price will be. However, while many homeowners are satisfied with the final outcome, you should be aware that there is always the risk the developer will run into hard times and the building will not be completed.

To cover this risk, builders are required to take out a special bank guarantee that will compensate investors should things go wrong. Before investing in any not-yet-completed project, check on this guarantee and consult with representatives of the bank that is standing behind it.

Once you are sure the project is properly guaranteed, your main concern will be the payment schedule. Usually you are required to make a down payment with subsequent payments due as the project progresses. For example, in addition to the down payment, you might be required to pay 25 per cent of the remainder when the basic structure is completed, 25 per cent more when the floors and some interior work have been finished and so on.

When considering the cost of the new home, don't forget to take into account whether or not the kitchen will be "amueblada", or furnished, and "equipada", or outfitted with basic appliances. It is not unheard of for either or both of these aspects to be left in the hands of the future owner.

Finally, your lawyer will help you to ensure the contract you sign is in your best interest, containing, for example, a clause that ensures you receive compensation if work is delayed. This is an excellent way to encourage your builder to keep the project on schedule and hand over the keys on - or at least near - the date promised.

## Property Taxes

Your accountant, lawyer or "gestor" is your best bet when it comes to working out the best approach to your property taxes. As a source of general information, however, these are the taxes you can expect to pay on your Spanish property:

### IBI

The IBI is the "Impuesto sobre Bienes Inmuebles", which could be translated as "property tax". This is a municipally levied tax and varies widely from one municipality to another and from one type of property to another. You might for instance, pay as little as 50 euros per year for a simple property in a rural area. While a luxury home on a prime lot in an expensive urban neighborhood might cost as much as 1,500 to 2,000 year.

If you are not in Spain during much of the year, it is best to arrange a standing order at the bank in order to pay this tax. If you do live here, however, you might get a discount by going in person to make an early payment. In any case, don't wait until the town hall chooses to notify you of the tax as, by then, you might owe late fees.



## **Impuesto Extraordinario sobre el Patrimonio**

This is a tax on all of your assets and includes your property. There is a difference between residents and non-residents, however, in that residents are expected to declare their world-wide assets, while non-residents are only required to declare the property and other assets they own within Spanish territory.

Check with your professional advisor to see if you are exempt from this tax as it is only charged on assets totaling more than approximately 100,000 euros (per person in the case of a couple).

## ***Special Consideration for Non-Resident Property Owners***

As a non-resident property owner you must be aware of two things. First, you need to obtain an official identification number that will allow you to pay taxes. This is called an N.I.E. and is available by filling out a form at your local National Police commissary.

Secondly, if you own more than one property, you are required by Spanish law to appoint someone to represent you in a financial capacity. This can be any official resident, whether native or foreign. Many people choose to have their lawyer do this for them. Not having a representative can result in heavy fines.

Note: "**Gestor**" is the Spanish term for a person who basically makes your life easier by taking care of all kinds of paperwork and transactions. These are people who are very good at maneuvering the system, and they can save you loads of frustration in every area of your life. Some "gestors" specialize in accounting, others in law. Some form agencies employ people with a variety of specialties, all of whom work together to resolve clients' problems.