



ELEMENTS OF A “*TITLE SEARCH*” *when buying property in Portugal*

A *title search* is a process that is performed primarily to determine the answer to three questions:

- 1) Does the seller have a saleable interest in the property being sold?
- 2) What kind of restrictions or allowances pertain to the use of the property (real covenants, easements, or other servitudes)?
- 3) Do any liens exist on the property which need to be paid off at closing (mortgages, back taxes, contractor's liens, or other assessments)?

In some countries, when purchasing property, a “*Title Search*” is the norm or even mandatory by law. Without a doubt, this investigation should be the principal contribution of the legal advisor guiding the process of acquisition. Regrettably, this does not always prove to be the case.

Too often, the accompanying attorney focuses only on the new paperwork - always in abundance in Portugal - rather than seeking out any bureaucratic “*skeletons in the closet*”. At the end of the day, you want to be sure that you are getting what you expect, not a *pandora’s box* of nasty surprises.

What to look for

Before concluding the Promissory Contract (*Buy-Sell Agreement*), it is essential to dig out the true situation of the property:

At the Land Registry, (“*Conservatória do Registo Predial*”), check to ensure that:

- The Seller is truly the owner of the property, i.e. if the property is registered in his name;



- Any charges or encumbrances levied on the property, such as tenancy rights, habitation rights, surface rights, servitude, mortgages, liens, foreclosures, seizures, listings or judicial proceedings;
- Any discrepancies in recorded areas between official registrations in different government offices (Land Registry / Town Council / Tax Office);
- If the building has already been set up as a condominium (“*horizontal property*”), or if there are already prescribed units or other form of subdivision stipulated.

At the Town Council (“*Câmara Municipal*”) where the property is located, find out:

- If the property has a Habitation License issued for residential housing;
- Verify that all the supplementary elements of the Property are duly registered and approved, such as additions, swimming pool, garage, outbuildings, etc.
- If you plan to build, make sure the land has permission for subdivision and/or construction and what characteristics and area of housing have been duly authorised.

At the local Tax Office (“*Repartição de Finanças*”), verify:

- If the Owner has any debts to the State (even if none exist on the premises, the current owner may be under prosecution in connection with other tax debts);
- If the property is vacant, ensure that there are no heirs with any rights to the property (such as first refusal);
- the current amount of “*VPT*” (Rateable Value) and when it was last performed;



- the eligibility for exemption from Council Tax (“*IMT*”) and the necessary procedures to claim exemption;
- if not entitled to exemption, what will be a) the new Rateable Value and b) the new Council Rates (“*IMT*”) that will be due after the mandatory fiscal reappraisal of the property upon final conveyance;
- If purchasing a used property, check to ensure that all taxes obligations are current.

Do your homework

Proper research at the beginning can avoid potential nightmares later on. Don’t just assume that someone else is handling things for you. While your Lawyer and Estate Agent are the ones on the ground who are best positioned to get the job done, there is no substitute for informed buyers who are diligently asking the right questions and looking after their own interests.

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