

The Marbella Property Buyer's Guide

A step-by-step guide for property buyers

The buyer's problem in finding the right property, negotiating its purchase and closing the sale is much more difficult than in one's own country. As in most resort areas, everybody seems to be in the business, from the taxi driver to the hall porter in the Hotel. Property is everyone's favorite subject of conversation. And almost everyone has an opinion, many of which can easily confuse a potential buyer. Where to start?

Finding a property

Some people spend years looking for a property. Others are lucky enough to find a property and have the confidence to purchase on their first visit to Marbella. Yet others need to take their time and view properties during three or four trips, until they feel really comfortable with their eventual decision.

What type of property are you looking for, and in which area?

Many potential buyers think they are looking for one type of property and end up choosing something totally different. Unless you are very clear about what you want and are equally sure that it exists, look at various types of properties in different residential areas with an open mind. This exercise will also help you build up your knowledge of market values in the area, a major advantage in negotiating and ensuring that you are getting fair market value for your money when you buy.

Choosing a reputable estate agent can save you time and there are many highly qualified agencies on the Costa del Sol, alongside more opportunistic and less qualified ones. In the past, qualified agents have either been APIs (Agentes de la Propiedad Inmobiliaria) or GIPEs (Gestores Inmobiliarios), but recent legislation allows anyone (!) to open a real estate agency. It is therefore extremely important to look for an established, experienced agency with an excellent track record and good recommendations from non-interested parties. A recommendation from your lawyer or a long-time resident should point you in the right direction.

Good agents will really listen to you and interpret your requirements. They will share their market knowledge and experience with you and, if they exhaust the properties suitable for you from their direct portfolio, they will work with properties from the portfolios of collaborating agencies to find the right properties to offer you. Key qualities to look for in a good agent are: experience, professionalism, product knowledge, sincerity, good communication, a friendly desire to help you in any way possible in your property search and, above all, not pushy!

If you do not feel comfortable with your agent you shouldn't hesitate to move on. But when you find one who is easy to work with and understands what you are looking for, stay with that agent until you find the right property, or until you are satisfied that you have been offered all the properties available through that agency and its collaborating agencies. Sticking with an agency motivates the agent you are working with to pull out all the stops and come up with the right property, as well as saving you from having to tell the same story to every new sales agent you approach.

A few points of advice

Compromise always pays dividends

It will be almost impossible to find exactly what you want, even if you build it yourself and if you do find it, don't be sure your partner will agree with your choice. Find a property that you are both happy with (even if this means compromise!)

Do you mind being a pioneer?

If you want to buy in a new or not fully built-up area, remember that empty land plots will be built on one day and that you may find yourself in the middle of an ongoing construction site for many years to come.

Protect your investment

Make sure you have enough land around you to protect your privacy and views from a prospective building project.

Ensure the protection afforded by the law is given to you

If you are buying property under construction, the developer is legally required to provide an insurance policy or bank guarantee to protect your payments in the event of incompleteness. The developers must also provide proof of ownership, as well as planning permission and licenses, and since 2002, an insurance policy against building defects. A lawyer experienced in property transactions will anticipate these items.

Buy for your own use first and foremost

Unless you are absolutely sure that your children or grandchildren will visit you, it is generally a mistake to buy with their use as the main consideration. Time and again, people end up selling their enormous homes when their family doesn't visit as often as envisaged. Purchase primarily for your own use, taste and objectives.

Realistically analyze the potential costs of modernising an older villa or apartment that has romantically taken your fancy

Reforms and unexpected repairs can be expensive surprises. That said, second hand properties will often have a better location and may be less expensive than newer properties.

Look at comparables

The best rule for determining the value of a property is to take real sales prices of comparable properties recently sold. To enable you to do this your agent must have very good market knowledge. It will also help to have seen enough properties yourself to get a basic knowledge of the market.

Think ahead to the day you sell

A property bought today is an important part of one's assets. It is therefore advisable to take into account not just personal preferences but also general investment criteria, such as location, design factors, quality of finishes and facilities.

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Negotiating the purchase

Your agent may not be as skillful in negotiating the price of your offer as he or she was in helping you find the property in the first place. Don't hesitate to seek out the Sales Director or Managing Director of the agency to help you negotiate your purchase. Experienced estate agents are generally better at handling the commercial elements of a sale (this is their job) than lawyers are, and will do their best to bring what are often opposing viewpoints (yours and the seller's) together in harmony, as any good negotiator should do. Your lawyer can always be consulted during the negotiation to ensure that the offer meets his or her legal criteria, and become actively involved in more complicated negotiations.

In making an offer it is important to feel out the bottom price of a seller but at the same time qualify yourself as a serious bidder. Too low an offer will not engage the interest of the seller, and might prove counter productive.

Try to get all your negotiating points together at one time rather than negotiate piecemeal: this saves time and often, unpleasant surprises.

If your offer is too low, your strategy can boomerang and it may simply insult the seller, and you may not even get a response. It's important to know how much property is really worth in the market, and to you. Find out if the seller has rejected other offers and what they were. What is the minimum offer that will engage his interest?

Make your offer in writing if possible (of course, subject to contract), and include not only the price, but also the deposit amount, when you are prepared to pay it, when you are prepared to complete, what you understand to be included in the price (for example furniture and fittings if applicable), and an often neglected point, that all machinery equipment and installations should be in good working order.

Show the colour of your money to the seller. He will certainly take your offer more seriously if you have a healthy deposit ready for immediate action in a bank account in Spain. This is normally in the area of 10% of the purchase price. Many agents today also offer credit card facilities, wherein a small deposit from €5,000 to €50,000 can be taken to "seal a deal" with a seller, and the deposit remains in the agent's client account during the week to ten days it can take the lawyers to prepare the private contract and a transfer of the 10% to arrive.

Municipal Added Value (Plus Valía) tax (the increase of the index value of the land since it was last purchased to its present sale). This tax corresponds, by its nature, to the vendor who is responsible for its payment, unless otherwise negotiated. Measure the land you purchase. If you

are looking to buy a plot of land and no topographical survey exists, it may be advisable to negotiate a “Euro per square metre” price subject to survey, to avoid any unpleasant surprises.

Good psychology dictates that you should leave room to improve an initial offer. However, if you believe your offer is realistic and perhaps have a second choice in mind, it can be a wise strategy to let the seller know that if he doesn't accept your offer, you will be offering on another property before considering any counter offer from him.

Property Purchase Costs

<p>Transfer Tax Scaled at 8%, 9% & (I.T.P.) 10%</p>	<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 resale properties. If the “minimum fiscal value” of the property, as per the Regional Government, is greater than the price, then the minimum fiscal valuation applies: 8% is applicable up to the amount of 400,000€ or 30,000€ in the case of garages except those belonging to the dwelling and with a maximum of two; 9% is applicable to the amount between 400,000€ and 700,000€ or between 30,000€ and 50,000€ for garages; 10% is applicable to the amount exceeding 700,000€ or 50,000€ for garages.</p>
<p>VAT and Stamp Duty 10% + 1.5%</p>	<p>For any villa or apartment, or garage that is annexed to an apartment or villa, where the vendor is a developer, promoter or habitual trader for brand-new properties.</p>
<p>VAT and Stamp Duty 21% + 1.5%</p>	<p>For the first sale or resale of parcels of land, and only for the first sale of brand-new commercial premises where the vendor is a developer, promoter or habitual trader or a company.</p>
<p>VAT and Stamp Duty or Transfer Tax (I.T.P.) 21% (villa/apartment) + 2% (comm. Premises) or Scaled at 8%, 9% & 10%</p>	<p>In resales of any villa, apartment or commercial premises, where the vendor is a company, developer, promoter or habitual trader and the purchaser is a company that will apply or use the property for the development of its activity, they can chose between paying VAT (that can be deduced with the normal activity of the company) and 2% of stamp duty or Transfer Tax.</p>

Notary and Property Registry Fees 3,000€	The cost increases according to the number of pages or complexity of the title deed, and value of the property.
Municipal Added Value Tax (Plus Valía)	The Plus Valía tax (described earlier) can be as little as a few hundred Euros or as much as many thousands of Euros on a property with a lot of land that hasn't changed hands in many years. This tax corresponds, by its nature, to the vendor who is responsible for its payment, unless otherwise negotiated.
Lawyers Fees 1% Appox.	Lawyer's fees are in the order of 1% of the selling price, more or less, depending on the lawyer and the price of the property.

Summary

The total official costs involved in purchasing a **constructed residential** property should be around 10-11% for **resale properties** or around 12% for **new properties** if VAT is paid on the purchase price, plus lawyer's fees.

When an offer is accepted, always get a lawyer to check the land registry (the last word on property ownership, where any liens and encumbrances will show up). He will prepare a private contract that will bind both parties to the deal, and eventually prepare the public deeds for signature in front of a Spanish Notary, when the balance of the purchase price is paid and vacant possession of the unencumbered property is granted, thereby completing the sale. There are excellent lawyers in Marbella, most speaking fluent English and other languages. The best way to find one is by personal recommendation, or by asking your agent.

Of course, many of the above comments are more intended for the purchase of resale properties, as new developments have a fixed price list and payment schedule, often with very little room for negotiation, at least with respect to price. Sometimes some extras or modifications can be negotiated within the purchase price, depending on the policy of the developer.

In summary, finding and buying a property in Spain can be as simple, or as complicated a procedure as one wants to make of it. The old rule of Caveat Emptor, (Let the Buyer Beware!) always holds true. And a final tip: listen to your intuition! It is often one's best guide!