

Sale of a property - why it should be planned in advance?

The majority of people thinks it is easy to sell a property, that it is something simple, something they can do by themselves, as they bought the property, and that this is the hardest part of purchase and sale of a property. The majority of the real estate agents do not help their clients, as they say they will handle the sale, and they will deal with the property documents, but in the end, they don't pay the proper attention to the property/documents. Well, they could not be more wronglet us see why!?

Property documents

The first thing to check is if all the necessary documents are in place. First, because since the date of the purchase to the date of the sale, the number of documents requested for a sale might have changed. Nowadays, there are new documents, which were not needed a couple of years ago (for e.g., the Energy certificate). Second, because there are documents which may need to be updated, as for example, land registry certificate, booklet, etc.

The property documents check become even more important when you bought a plot of land and you have built a house, a swimming pool, a garage, etc. It is necessary to check if the property documents have been updated to reflect the new reality, as well as if all the others (for e.g., habitation technical file, energy certificate) have been created in consequence of the changes that the old property has suffered.

Legal searches

It is crucial to confirm that the property you are going to sell in reality is matching with the property you are selling on the legal documents. So, the documents

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should be confronted with the real property. In Portugal it is very common buying a property without knowing about the illegal constructions the property suffered during the years or even thinking the property is completely legal when is not ... It is so typical, properties that were enlarged, having unlicensed garages or a garage transformed into a studio, or the number of bedrooms increased, bigger windows, unlicensed swimming pool, etc, etc, etc... *And then, is when the dream becomes a nightmare! Why?*

- a) Because, nowadays, buyers are much more aware of those problems, and don't want to inherit the same problem, when they decide to sell the property in the future. So, they will walk away from the purchase or they will apply for a price reduction;
- b) It might not be able to sell;
- c) Or have to wait for planning permission, which in Portugal can take years.

Selling a property with "problems" make you liable to pay indemnity to the buyers, if they were not aware of those, before buying.

Tax planning

Another big mistake of people in general, when they decide to sell a property, is to forget about the taxes they will have to pay. Again, they think they know everything about taxes or even that they do not have to pay taxes...well, the Portuguese tax system is very complex ... it is a not easy task to deal with the capital gains taxes. *It is common to see that people consider they have a loss, when on reality they have a gain.* To sell a permanent home in Portugal is always subjected to taxes, unless if you reinvest the full sales price, differently from in other countries of Europe. In Portugal, you need to have the original invoices and the correspondent receipts of the payments (with your name, tax number and address of the services, etc, etc) done during the renovation or the construction of a house. Copy of bank cheques or bank transfers are not accepted. If you don't have those, then those expenses will not to be accepted. The costs with a loan for a house construction might not be accepted. Each case is a case and need to be checked accordingly.

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It is for those reasons that it is very important to prepare a property sale in advance. So, you can guarantee the success of the sale, in a short period of time.

Therefore, it is essential to contact a lawyer who deals with property and tax matters to check that the property documents are correct, to do the necessary searches on the property and to confirm the tax position on the sale, as well as helping with the necessary tax planning, before putting the property on the market for sale.

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28/10/2019

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