

## CONVEYANCING IN PORTUGAL

2008

### 1- INTRODUCTION

**Neville de Rougemont** is an Anglo-Portuguese law firm with offices in the UK, Lisbon, the Algarve and the Cape Verde Islands. We specialize in purchases of Portuguese property by overseas purchasers and therefore employ both solicitors and Portuguese lawyers and legal executives fluent in the Portuguese and English languages.

If you have signed a reservation agreement and have paid your reservation fee and wish to instruct us on the property purchase, please note the following:

### 2 – REPRESENTING YOU IN PORTUGAL

**2.1.** – We would appreciate if you could send us an original proof of address such as a utility bill, which will then be returned to you. This will enable us to comply with the Portuguese Law Society's **money laundering regulation**.

**2.2.** – If you decide to have us as your tax representatives in Portugal (all non residents purchasing a property in Portugal, need to have a resident tax representative), we will send you a tax declaration which needs to be signed by you and which grants us powers to be your tax representatives in Portugal. Upon receipt of the declaration duly signed, we will request a **tax card** for you.

**2.3.** – Once we have provided you with your tax number(s), we will send you a draft of a **Power of Attorney** for approval. This will grant us the necessary powers to proceed on your behalf and will need to be signed before a local Notary.

### 3 – PRELIMINARY STEPS

**3.1.** – First, we will check the **classification of the property at the Land Registry**:

- “Lote”(Plot of Land), it has already been designated and registered for building purposes;
- Rural Land, check the planning rules and get the planning / building permission;
- Already existing house or “Fracção” (part of a building).

**3.2** – And then, check the **legal title** to the property.

The land should be registered in both the **Land Registry** and in the **Tax Department**, in the name of the seller. We will **carry out Land Charges Searches at the local Tax Department and Land Registry Offices**, which will reveal whether there are any onuses or liabilities registered upon the property or any restrictions on title.



## 4 – THE LEGAL PROCESS

**4.1 – The Documents** which we will ask from the vendor and which make proof for the property, are the following:

- **Certidão de Teor** da Descrição e de todas as Inscrições em vigor, valid for 6 months; it is issued by the **Land Registry**.
- **Caderneta Predial** issued by the Tax Department (it needs to bear a stamp from the **Tax Department** and is valid during 1 year).
- **Certidão Matricial**, valid for 6 months and issued by the **Tax Department** when the seller does not have the *Caderneta Predial*.
- **Licença de Utilização**, issued by the **Town Hall** only for Property built after 1951 (The existence of a valid habitation permit is a precondition for a valid conveyance of property to take place in Portugal and the existence of such permit presumes that a valid building license was issued previously).

We will send you a Report on Title, setting out all the legal characteristics of the property and based on the above referred documents.

### 4.2 – The Promissory Contract

Once you have agreed with the Report on Title, have sent the Power of Attorney and the deposit monies, we will be in a position to exchange contracts, which should take place **within 30 days from the date of reservation**.

At this stage the purchaser would normally be expected to pay a **deposit**, which is negotiable (10% or lately 30% is common practice). In Portugal, the parties become

contractually bound with the signature of this Promissory Contract of Purchase and Sale, which sets out the terms of the transaction (property details, price, method of payment, completion date, warranties, penalties, etc.). Until such contract is exchanged the vendor is not committed and can change his mind (without any guarantee that he will receive the reservation fee).

#### Required Documents:

- **Tax Cards** of the buyer and seller from the Tax Department;
- **Identity Cards/Passports** of the buyer and seller

### 4.3 – The Deed of Conveyance

If you have applied for a bank loan, we will need to register the mortgage at the Land Registry along with the provisory registration of the acquisition.

Then, and upon payment of the transfer tax (please see 5 – 1.1), we will be ready to sign the Deed of Conveyance (“**Escritura**”).

Signed before a Public Notary, it means completion of the transfer. The Notary will verify the identity of the parties and the validity of the deal (both legally and from a tax point of view). This is the document that gives the purchaser proper title to the Property.

#### Documents:

The documents referred in 4.2 and:

- **Certidão de Teor** (Land Registry); **Caderneta Predial** or **Certidão Matricial** (Tax Department);



Licença de Utilização (Town Hall). Validity as described in 4.1;

Please note that these rates were calculated in accordance with the 2008 State Budget and that they are applicable to 2<sup>nd</sup> residences. If you wish to live in Portugal and have your permanent residence here, the applicable rates are the following:

#### 4.4 – Registration

The buyer needs to register the purchase at the Land Registry for it to be enforceable against third parties.

## 5 – BUDGET

### 1 - Taxes

#### 1.1- Transfer Tax (“IMT”)

Charged on the value of the property; it has to be paid by the buyer before completion.

- **Rustic Land** is charged at 5% of the declared value;
- **Building Land** is charged at 6,5% of the declared value;
- **Residential Property** is charged according to the declared value of the property, as follows:

Taxable Income (Euros)	Rates (%)	Amount Deductable
Up to € 87,500.	1%	0
€ 87,500. to € 119,700.	2%	€ 875.00
€ 119,700. to € 163,200.	5%	€ 4,466.00
€ 163,200. to € 272,000.	7%	€ 7,730.00
€ 272,000. to € 521.700.	8%	€10,450.00
Over € 521,700.	(Standard rate) 6%	

Taxable Income (Euros)	Rates (%)	Amount Deductable
Up to € 87,500.	0%	0
€ 87,500. to € 119,700.	2%	€ 1,750.00
€ 119,700. to € 163,200.	5%	€ 5,341.00
€ 163,200. to € 272,000.	7%	€ 8,605.00
€ 272,000. to € 543.900	8%	€11,325.00
Over € 543,900.	(Standard rate) 6%	

Offshore companies owning property in Portugal are charged at a fixed rate of 15%.

#### 1.2 - Council Tax (“IMI”)

This tax is paid by the owner(s) of the property and it is paid either annually or in two instalments per year. It is charged on the value of the property as assessed by the tax department:

- **Rustic Land** is charged at 0,8%;
- **Building Land** is charged between 0,2% and 0,5% depending on the parish/council where it is located (if the property's value has not been assessed by the Tax Department in the past couple of years, you will still be subject to the old



IMI rates which vary between 0,4% and 0,8% of the property value).

Offshore companies owning property in Portugal have to pay council tax at a fixed rate of 5%.

Property for permanent residence can be exempt from paying IMI from 3 to 6 years, depending on the assessed value.

### 1.3 - Notarial Fees

Paid at the time of executing the deed, to the Public Notary, charged on the declared value of the property, at approximately € 400,00.

### 1.4 - Stamp Duty

Paid at the time of executing the deed, to the Public Notary, charged on the declared value of the property, at a rate of 0,8%.

It should be noted that if a mortgage is obtained in Portugal, you should account for additional stamp duty of 0,6% on the value of the mortgage.

### 1.5 - Registration Fees

Payable upon Registration at the Land Registry, charged on the declared value of the property, at approximately € 200,00.

In case there is a loan, and a mortgage to be registered on the property, extra notarial and registration fees will be charged.

## 6 – TIMING

- 5 to 20 days to get the **Certidão de Teor** (Land Registry) and the **Certidão Matricial** (Tax Department);
- 1 week to 1 month to receive the **Licença de Habitação** (Town Hall) if the seller does not have it with him or if it is not referred in a previous Deed of Conveyance;
- 1 week to 1 month to negotiate the terms of the **Promissory Contract**, execute **Promissory Contract** and pay deposit monies to seller directly;
- 2 weeks to 2 months to sign the **Deed of Purchase and Sale** and pay outstanding balance to seller directly;
- 1 month to complete registration of property in the buyer's name.

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