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BUYING AND SELLING REAL ESTATE IN CYPRUS

ILN REAL ESTATE GROUP



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KEY FACTS OF REAL ESTATE ACQUISITIONS UNDER CYPRIOT LAW



“Buying and Selling Real Estate in Cyprus”

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A. GENERAL

1. Introduction

Cyprus is a common law jurisdiction, and its legal system is based on the UK one. It is a clear and robust system which leaves no uncertainty as to the ownership status of real estate in Cyprus. The Land Registry Office in Cyprus (with district offices in each of the major towns of the island) records and maintains up to date records of ownership and interests over land. In parallel, Cyprus’ immovable property law, the cornerstone of real property ownership and transactions related to land, regulates the transfer of title, tenure, registration, disposition, and valuation of immovable properties in Cyprus and the creation of securities, charges, and interests over the same.

2. Land Registry Department

The Land Registry Department was established in 1858 based on the model. It is said to be one of the most dependable and trustworthy worldwide. All rights, interests, and easements (for example mortgages, long leases, rights of way) associated with immovable property, cartography, registration, and of course transfer of title to immovable property, are monitored and registered by the Land Registry Department.

Accordingly, purchasers of real estate property in Cyprus can have full knowledge of the status of the property they are interested to buy, as the information related to their potential purchase can be traced from Land Registry records prior to the completion of the

transaction. Their purchase transaction would be registered at the Land Registry.

3. Ownership rights

Real estate in Cyprus may be owned by a single person, or more persons collectively, it may be leased, and it may be placed under a trust.

Ownership of the whole

Where real estate property is owned by one single person, that person is registered with the Land Registry as the sole owner of the whole of the property. The Land Registry issues a separate title deed in the owner’s name showing him as owner of the whole 1/1 share in the property.

Ownership of shares

Where real estate property is owned collectively by more than one person, they are registered with the Land Registry as co-owners of the whole of the property, with each of them as owner of a specified share in the property (e.g., 1/2, 3/4, 4/56 as they case may be Separation/allocation agreements are possible to be concluded, to designate and regulate the co-owners’ rights over the different parts of the property. The co-owners can together lease or sell the property. Each of them has the right to mortgage or sell his share, subject to the rights of first refusal provided under the law for the other co-owners.

Trusts and Beneficial Ownership

The concept of “trust” is recognized under Cyprus law, and it is regulated by both statute and common law principles. Accordingly, real estate property can be made part of the trust estate and afford to the beneficiaries the rights that the settlor provides in the trust instrument. Trusts can be registered with the Land Registry Office over the real estate to which they relate to. The beneficiaries do not



hold title over the real estate, as title is registered in the name of the trustee to hold it under the terms of the trust.

A special form of interest that may be created over real estate and provided by Cyprus law, is the “life interest reservation” (*in Greek: Δικαίωμα Επικαρπίας*). This confers to the stipulated beneficiary, the right to possess, enjoy, receive the income from and exploit the property for the period of his life while the title is in the name of another.

Leases

Real estate in Cyprus may be leased under private agreement between the owner and the lessee. Long-time leases (i.e., leases for a period of 20 years), are deposited with the Land Registry Office and registered as a “burden” or “interest” over the property. Even if the property is sold or mortgaged, it carries with it the registered lease.

4. Types of Properties

The most common types of real estate property in Cyprus are plots of land, houses, flats, commercial and industrial properties (such as office space, shops, and industrial premises).

Plots of land and buildings are categorized by the planning department as residential, agricultural, commercial, industrial, tourist, forestry or of other special or protected zone. The permitted use of the property depends on the planning zone that it falls in and the permitted uses for that zone.

Cyprus has adopted EU Directives for the protection of the environment, including for water quality, atmospheric pollution and climate change, noise, nuclear radiation, waste disposal, conservation of flora and fauna and assessment of the environment impact of proposed projects in the process of issuing the required permits.

B. IN PRACTICE: ACQUISITION OF REAL ESTATE

The required time for the completion of acquisition of immovable property in Cyprus depends on the complexity of each case. An acquisition may be completed fast (in a few days), or where complexities exist (e.g., mortgages, banks, multiple sellers) within a longer time.

It is common for real estate agents to be involved in real estate transactions. The estate agent profession is regulated in Cyprus and under the law the existing estate agents’ fee cannot exceed 5% of the sale price plus VAT. The customary is for the agent’s fee to be paid by the seller (except where agreement exists for other arrangement).

The acquisition of a real estate property in Cyprus includes the following steps:

- 1. Reservation.** Usually this effected by a “reservation agreement” whereby the seller grants to the buyer an option to purchase the property within a certain period in consideration of a reservation fee.
- 2. Property Due Diligence.** It is strongly advisable to conduct a due diligence on the ownership status of the property. Among other checks, the process includes review of a recent official Recent Land Registry search certificate, and copies of the planning and building permits. Where the property purchased includes a building, expert opinion (from architect or civil engineer), is also advisable to be obtained.
- 3. Sale and Purchase Agreement.** The sale and purchase agreement include the final terms and conditions of the agreement between the buyer and the seller.
- 4. Stamp Duty.** The sale contract must be stamped by payment of the applicable stamp duty calculated on the purchase price (at a rate of 0.15% for €5.001 - €170,000 and 0.2%



from €170,001 and over). Stamp duty is customary to be paid by the purchaser.

5. Submit the Contract of Sale at the District Land Registry. Filing of a contract of sale with the Land Registry creates in favour of the purchaser a real interest (akin to an encumbrance) over the property and gives to the purchaser the right of “specific performance” of the contract.

6. Transfer of property in buyer’s name. The property is transferred in the name of the buyer at such time and upon such terms as stated in the sale contract. It is important to note that for the transfer of the property to be possible (a) the seller must obtain a Tax Clearance Certificate; and (b) Transfer Fees must be paid.

Transfer fees are calculated by the Land Registry on the value of the property (as valued by the Land Registry) as follows:

Value	Rate	Current rate of 50%
€0 - €85.000	3%	1,5%
€85.000,00 – €170.000	5%	2,5%
€170.001 and above	8%	4%

Exceptions may apply on the payment of transfer fees where the sale is subject to VAT.

Where the purchaser is a non-EU national, before proceeding with the transfer of the title to the property in his name, he should obtain a permit from the District Office (which is basically a procedural/administrative step).

This requirement does not apply, where a non-EU national purchases the property through a Cyprus or EU company (e.g., where

the buyer is the owner of the company, and the company acts as purchaser in the transaction).

C. PERMANENT RESIDENCY BY INVESTMENT

Non-EU nationals may use the fast-track permanent residency programme run by the Cyprus government. The applicant must invest at least €300.000 in one of the following investment categories:

- (a) *Housing / apartment investment:* Purchase of a house and/or apartment from a land development company, of at least €300.000 (plus applicable VAT). In this case a resale is exempted from the scheme programme.
- (b) *Investment in real estate (excluding houses / apartments):* Purchase of other types of real estate such as offices, shops, hotels or similar developments or a combination of these with a total value of € 300,000.
- (c) *Investment in a share capital of a Cyprus Company with activities and staff in Cyprus:* Investment worth € 300,000 in a share capital of a company registered in the Republic of Cyprus, which is based and active in the Republic of Cyprus and has a proven physical presence in Cyprus and employs at least five (5) people.
- (d) *Investment in shares of Cyprus Investment Organization Collective Investments (type AIF, AIFLNP, RAIF):* Investment worth € 300.000 in shares of Cyprus Investment Organization Collective Investments.

Upon investment being made and filing of an application under the scheme, which is approved, the permanent residence can be granted to the main applicant, spouse, children, parents, and parents in law of the applicant. There is no renewal requirement -the permit is valid for life.



The holders of the permanent residence permit are entitled to apply for a Schengen Visa through any Schengen European Embassy.

D. TAX

The main types of tax that may be relevant to a real estate sale and purchase transaction (beside stamp duty and transfer fees which were described in section B above), are VAT and Capital Gains Tax.

VAT may apply at the existing rate of 5%, 19% or it may not apply at all (depending on the type of the property purchased, the intended use by the purchaser and the condition (new or used) of the property).

Capital Gains Tax is imposed on the seller and is calculated where there is a “gain” from the sale (e.g., where the seller has purchased the property at a lower price and sells it at a higher). Generally, Capital Gains Tax is imposed at the rate of 20% subject to exemptions which may apply to reduce or exclude it.

Property Taxes are subject to various types arising from the ownership of the property.

1. Local Authority Fees are calculating on the size of the property by approximately €85 to €256 per year.
2. Municipality Taxes are applied by each local municipality to the owners of the immovable property. The municipality tax is calculated on the value of the property, and it rates from 0.1 % to 0.2%.
3. Sewerage Taxes are applied by each local Sewerage board to the owners of the immovable property and the rates vary from 0.3% to 0.35%.

Inheritance Tax is abolished in Cyprus since 1/1/2000.

It is advisable to consult with a tax expert before concluding a real estate transaction.

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