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Buying and Selling Real Estate in Panama

ILN REAL ESTATE GROUP



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KEY FACTS OF REAL ESTATE ACQUISITIONS UNDER PANAMANIAN LAW

1) Once you find a real estate property that you want to acquire by yourself or through a local real estate broker, it is strongly recommendable to hire a local attorney to perform a thorough due diligence on the property.

2) Once the due diligence is finalized, and the property is clear from any restriction that will impede its sale, you or through your broker, should negotiate the terms and conditions of the transaction, which will include the price and payment method.

3) The next step will be to subscribe a Promissory contract that will contain all the terms and conditions of the purchase/sale.

4) At the moment of the signing of the promissory contract, a down payment is given to the seller so that he may settle the taxes (5% of the higher value between the purchase price and cadaster value of the property) that generate the transaction.

5) Once taxes are paid by the seller and all the documents for closing are in place, the parties will need to sign before a local notary the final purchase/sale contract, which will be subscribed in a Public Deed.

6) The final step of the purchase/sale is to register the final purchase /sale contract in the Panama Public Registry, so that the transfer of the property can be consummated.

Important Aspects:

a) Registration

Panama has a public system where all matters related to real estate are registered, including title, any improvement to the property, burdens, impediments, and limitations to ownership.

- When a real estate property is registered, it is assigned with a parcel number, which will be used to identify the specific property, as it will include information such as the name of the owner(s), its registered value, measures of its areas, borderlines and any boundaries which have been registered on the specific property.
- Any person (foreign or national, natural, or legal entity) can hold real estate title in the Republic of Panama. To proceed with the acquisition of a real estate, the buyer will register the title under his/her/its name, with the registration of a Public Deed at a Public Notary office, which includes the Purchase & Sale Contract, and by paying the correspondent taxes to the Panamanian Tax Authority.
- The registration of this public deed at the Public Registry is obligatory for the transfer to be executed.

b) Taxes

The following is intended to provide basic information about taxes related to the most common real estate transactions, and any tax liabilities enquiries should be handled on a case-by-case basis.

- Property Tax (Impuesto de Inmueble)
Real estate in Panama, whether in urban or rural areas, is subject to property taxes.
- All properties registered at a value of \$30,000 or less, including improvements of land, for instance, construction.
- Land occupied exclusively for agricultural purposes like farming and registered



with the Ministry of Agriculture and Development at no more than \$150,000.

The real estate tax basis should be understood as being the combination of the value of land and the improvements of the property, which includes any construction on the land, as appraised by Land Commission (Oficina de Catastro). Real estate transactions at prices surpassing the appraisal value are automatically registered with the new, higher value, and thus becomes the new basis for taxation.

- Real Property Transfer Tax

When a property is sold, the Real Property Transfer Tax is assessed and calculated on the greater of the total value, whether the sale price or the registered value, plus the value of the improvements. The tax rate is 2% of the greater of these two values, plus 5% for each year since owning the property.

- Real estate taxes season in Panama occurs 3 times every year, at the end of April, August, and December.

c) Financing

- Local or Foreign Banks and/or Lenders are usually used to acquire / buy real estate in Panama, which secure the buying through a mortgage agreement with the buyer. Mortgages must be granted in the form of a public deed before a Notary Public in Panama and registered at the Public Registry to perfect the security interest.

d) Leasing

- Panamanian Civil Code regulates Leasing in Panama, which are divided in two categories: the first covers residential leases with a monthly rental fee up to US\$150, and the second category covers residential leases with a monthly rental

fee of US\$150 or more, as well as leases of premises for commercial, professional, industrial, or educational use (regardless of the amount of the rental fee).

- A leasing agreement must include: The right of the lessee (in residential leases) to waive the minimum lease term, and terminate the lease agreement at any time (with a written notice sent at least 30 days prior to the termination date), the right to sub-lease, the obligation to deposit with the Ministry of Housing a sum equal to the agreed rental fee, the right of the lessee (in residential leases) to exercise his/her profession inside the leased property, unless it interrupts the peaceful enjoyment of the property or violates the law. Lease agreements must be registered at the Ministry of Housing; and also, as a public deed at a Notary Public (when its term exceeds six years) – being 20 years the maximum time period a lease agreement is permitted. Nevertheless, both categories of leasing could be registered at the Public Registry to inform potentially interested third parties.

e) Constructing

- In order to build in Panama, prior to the beginning of construction, the necessary plans must be accordingly signed by a professional who is duly licensed by the Technical Board of Engineers and Architects of the Ministry of Public Works; and then approved by the Directorate of Municipal Works and Constructions.
- After the construction is finished, an application for an occupancy permit must be submitted to the Directorate of



Municipal Works and Constructions. In order to be granted with the occupancy permit, the builder must already have the construction permit, the permit issued by the Security Office of the Fire Department, an electricity permit and a permit for installation of air conditioners (when applicable).

- Panama's condominium law is called the “**horizontal property regime**” which regulates owners' rights when owning an apartment in a building built on commonly used land; and divides property into common and private areas and establishes the rights, obligations, and the limitations that each unit owner has with respect to these areas.