

QUICK LEGAL GUIDE ON THE SPANISH LIABILITY OF REAL ESTATE AGENTS/ COMPANIES FOR HOME SALES TO CONSUMERS

Imagine a real estate agent/ company operating in Spain convinces a national or a foreign consumer to buy an apartment. After making the payment, the consumer finds out that something is terribly wrong with his home purchase. Is the real estate agent/ company liable?

The real estate agent operating in Spain must, amongst others, provide the buyer with all the legal and factual information on the real estate which are of importance for the home purchasing decision. He cannot simply hand over the information of the seller to the consumer; the real estate agent must check by himself the truthfulness of all the important information he gives and complete all the decisive data. The concrete obligations of the real estate agents/ companies differ regionally.

In the following, I write a short TO-DO LIST of the real estate agent operating in Spain. This TO-DO LIST is not exhaustive. Only a detailed and concrete case by case study made by a lawyer can determine if the non accomplishment of the TO-DO LIST implies any liability of the real estate agent/ company.

The real estate agent should inform the consumer about the following aspects:

- Whether or not there are any burdens, mortgages, seizures or other limitations;
- the real square meters of the home;
- the real monthly costs of the community of owners;
- whether or not the home is being rented; etc.

In case the real estate agent “sells” a home that has still to be built or is being built, he should inform the consumer, amongst others, about the following circumstances:

- Whether or not the developer has a construction license (for the apartment, community zones and accessory services);
- whether or not a zoning plan exists;
- whether or not the concrete plot is OK for the intended building;
- whether or not the developer has the necessary reliability and financial capacity for implementing the building project;
- the status quo and a realistic forecast of the construction process.
- Whether or not the license or equivalent authorizations for using the apartment already exist; etc.

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