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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 reliable 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.

B. Standard forms of Agreements

The acquisition of a real estate property could be concluded with the following forms of agreements:

- ✓ **Reservation Agreement.** 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. After paying the reservation fee the property is removed from sale and reserved for the buyer. The paid amount of the reservation fee is included in the cost of the purchased object.
- ✓ **Sale and Purchase Agreement.** The sale and purchase agreement include the final terms and conditions of the agreement between the buyer and the seller. The contract contains important information about the transaction such as the payment structure. Usually an amount of around 20%-30% of the agreed sale/purchase price is payable with the signing of contracts and the balance is payable on the completion date. The completion date is the date on which the seller (or his power of attorney) and the buyer (or his power of attorney) will meet at the Land registry to finalize everything (transfer the title deed receive the balance of sale price hand over keys). The Sale and Purchase Agreement must be must duly stamped in accordance with applicable law and must be submitted to the relevant District Land Registry where the property is situated.



- ✓ **Assignment Agreement.** This is typically when the property is a resale. The assignment of a contract of sale has the purpose of assigning the existing legal and equitable rights of the property in question to the new buyer. By assigning the rights to the new buyer, the ownership of the property is effectively transferred to the assignee, who shall henceforth have all rights, including the issuance of the title of the property in his name. The said assignment agreement must be duly stamped in accordance with applicable law and must be submitted to the relevant District Land Registry where the property is situated.

Stamp Duty: The sale contract or the assignment agreement 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.

C. Real Estate Agents

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).

D. Buyer's Inspections – Property Due Diligence

Prior to closing, buyers retain the right to inspect the property with their consultants. The buyers may also employ qualified engineers to carry out structural or surveyor to verify the market value of the real estate. 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.

E. Forms of Ownership

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.

Leasehold Ownership

Leasehold Ownership confers on the Leasehold title deed holder those rights which are provided in the lease which is deposited



with the Land Registry. Such leasehold title deeds can be issued for long leases i.e., 15 years or over and subject to the provisions of the lease, can be sold, transferred, or mortgaged at the holder's option.

Types of Business Entities

The most common forms of business entities established in Cyprus are (a) limited companies; (b) partnerships; and (c) alternative investment funds. Further Cyprus international trust are also commonly formed by non-Cypriot investors and high net worth individuals.

✓ **Private Company limited by shares**

Cyprus companies are registered under the Companies Law, Cap 113 as amended. The private company limited by shares is the most common form of entity established in Cyprus. It has a legal personality separate and distinct from its shareholders with the liability of shareholders limited to the unpaid amount of their subscribed shares. There is no requirement for a share capital and generally there is no restriction as to its availability to carry on business activities even where its share capital is small.

✓ **Public Company limited by shares**

A public limited liability company is similar to a private company in terms of its features. It must have at least seven shareholders and a minimum share capital of Eur. 25.629. Unlike a private company, a public company is permitted to make offerings to the public and can be listed on the stock exchange upon satisfying certain criteria.

✓ **Partnerships**

Partnerships are regulated by the

Partnerships and Business Names Law Cap 116, as amended, and they may form either as general partnerships or limited partnerships. In general partnership all partners have unrestricted liability for all obligations of the partnership. In a limited partnership at least one partner is treated as a general partner and has unrestricted liability for the partnership's obligations with the other partners having limited liability up to the amount contributed (or remaining unpaid) by them to the partnership.

✓ **Fund**

With the enactment of the Alternative Investment Funds Law of 2018, Cyprus has modernized its legal framework regulating the registration and operation of alternative investment funds (AIF's). The Law permits the registration of AIFs which are self – managed (by their board of directors) or externally managed by a fund manager and may be registered with unlimited number of persons or with limited number of persons, or as “Registered” AIFs. An AIF may be formed as a company with a fixed capital, a company with variable capital, a common fund or as a limited liability partnership with or without legal personality.

✓ **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. Trustees are appointed by the settlor. The trustees' main duties are to administer the trust property prudently and to comply strictly with the terms of the trust. The general rule is that the trustees do not have the power to vary the terms of the trust under any circumstances.

✓ ***The Cyprus International Trust (CIT)***

The Cyprus International Trusts Law has been coming in force in 1992 and the last amendment made in 2013. This legislation ranked the Republic of Cyprus as one of the best jurisdictions for the creation of an international trusts due to their advantages compare to other jurisdictions. The duration of the CIT may continue perpetuity. As provided in the legislation a CIT is deemed irrevocable. It may revoke only if it is clearly provided for such an option in the trust deed.

Advantages

Some of the advantages of the CIT are the exemption of the tax, for instance, income, gains and profits from non-Cyprus sources are exempt from income capital gains tax, special defence contribution or any other taxes in Cyprus. Additionally, worldwide income, profit and gains are taxable in Cyprus only where the beneficiary is a Cyprus tax resident; beneficiaries who are non-residents of Cyprus are taxed only on Cyprus sourced income in accordance with the Cyprus income tax laws. Dividends received by a CIT are not taxable and not

subject to withholding tax in Cyprus. Also, there is no estate duty or inheritance tax in Cyprus.

It is worth mentioning that CIT may be used to protect assets from risks arising in tort, contract or otherwise in relation to transactions entered by the settlor.

Confidentiality and reporting

The registration of the CIT is necessary, but confidentiality of the beneficiary is safeguarded. There are no reporting requirements in Cyprus for the CITs other than registration of its existence.

Complicated family structures – family wealth management and estate planning

This scheme is ideal for high-net-worth individuals with somehow complicated family structures

Another form of beneficial ownership is the life interest reservation. This confers on the beneficial owner the right to possess or exploit the tenement for the period of his life while the title is in the name of another. This is usually a course adopted by parents when transferring their land to their children.

F. Closing Cost – Completion

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%

G. Recording Real Estate Documents

The submission of the Contract of Sale or the Assignment Agreement at the District 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.

J. Annual Costs for property ownership

- a. **Property Insurance:** Usually property owners insure their properties. The cost for insurance varies depending on the size and condition of the property.
- b. **Communal Expenses:** This refers to the properties that consist of part of a unified complex that entails common areas. The cost for communal expenses varies widely depending on location, size of property and the communal area management company.
- c. **Local Authorities Taxes:** Property owner’s falls under either a Municipality’s or a village council’s jurisdiction. Taxes and rates vary depending on which municipality/council the property is located. Taxes roughly range from about €85 to €256 annually, depending on the size of the property. These usually entail sewage, refuse collection, street lighting and other local expenses.
- d. **Immovable Property Tax:** This tax was payable by owners of property to the

Inland Revenue up until the end of 2016. Since 2017, this tax has been abolished.

K. TAX

The main types of tax that may be relevant to a real estate sale and purchase transaction, are VAT and Capital Gains Tax.

VAT: 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: It 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.

New Tax Announcement: The Parliament has passed a new law levying a 0.4% tax on all sales of immovable properties. In accordance with the amended legislation all transfers of immovable property as defined in the Immovable Property (Tenure, Registration and Valuation) Law Cap 224 and shares of a company which are not listed on any recognised Stock Exchange and that directly or indirectly owns immovable property, a tax of 0.4% will be paid by the seller of the property or shareholder. It is considerable to mention that the tax is not imposed in the case of a company reorganization as defined in Income Tax Law and in case of a restructuring of a non- performing loan as defined in the Capital Gains Tax Law.

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



Taxes in relation to renting a property: The rental income received from a property which is located in Cyprus is considered for tax purposes as a Cypriot sourced income and as a result is subject to personal income tax and General Healthcare System contributions, irrespective of the owner is tax resident in Cyprus. Depending on the tax residency and domicile status of the owner, rental income may also be subject to Special Defence Contribution.

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

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