



N. XENOFONTOS LLC

## **Checklist on buying property in Cyprus & Pitfalls to avoid**



### **Introduction**

Purchasing property, in any place, can involve a number of pitfalls. It is extremely important to seek property legal advice prior to buying a property, especially when the potential property does not have its own separate title deed readily available.

During the past years, many EU and non-EU high-net-worth individuals seek to acquire property in Cyprus through the Cyprus Investment Programme (citizenship).

Outlined below are the top 5 pitfalls to avoid and a checklist when seeking to buy property, ensuring that the process moves forward smoothly and securely.

### **1. Not appointing a lawyer**

Appointing a lawyer who specialises in immovable property is of utmost importance. One of the biggest mistakes seen through practice is that potential buyers sign a contract for the purchase of property that a developer has presented, without having a lawyer review the contents. Experience has shown that these standardised contracts do not provide any security or protection to the buyer and are actually heavily biased in the developer's favour.

One should also be wary to have an independent lawyer, not one acting for both the seller or builders.

An experienced and reliable lawyer who has specialist knowledge on real estate law and is perhaps the most important consideration when buying a property as the lawyer will be able to navigate through potential pitfalls and dangers.

## **2. Property checks – due diligence**

Prior to purchasing, the property must not be subject of an ownership dispute. Although this seems quite obvious, there have been instances where buyers were caught off guard especially when divorce proceedings are pending.

It is prudent to perform land registry searches on the property, to confirm the ownership, that the property indeed belongs to the seller, that there are no encumbrances, charges or other burdens on the property and also to check any mortgages against the property.

## **3. Not putting everything in writing**

It is often the case that important aspects relating to the property as such as hidden costs are not inserted as contractual clauses.

By way of example:

- Be aware of any hidden commissions negotiated between an agent/intermediary and the seller.
- Calculate the VAT payable, transfer fees of title, stamp duty, legal fees, disbursements, and immovable property taxes.

Equally important is to check whether there are any ancillary property management agreements for example to be executed regarding the property; this is the case with most luxury villas and apartments with common areas and servicing agencies.

## **4. Failure to deposit the contract of sale**

Not depositing the contract of sale with the district lands registry where the property is located, will result in the buyer losing an important legal right, that of specific performance.

Depositing the contract provides added protection to those buying property in Cyprus, pursuant to the new law passed on this point by assisting the issuance of the title deed to the property.

## **5. Not making a Will**

If you have bought property in Cyprus or are considering moving to the island, it is vital that you review the provisions of your existing Will (if you have one) and seek legal advice to ensure you have the correct measures in place to deal with your Cyprus property and other assets upon your death.

If you have a Will in your existing country of residence, do not rely on that Will to deal with your Cypriot assets without having sought expert legal advice from a lawyer experienced in dealing with the administration of cross border estates.

It is strongly recommended that you have a separate Cyprus Will drawn up that deals with your assets held in Cyprus, elementally as immovable property is considered as succession to it will go according to the 'law of the land' (lex situs).

In Cyprus, spouses owning property are considered as tenants in common, which is a form of co-ownership by which each owner holds an undivided interest, as if they were the sole owner. Unlike joint tenants, tenants in common have the right of inheritance.

When a tenant in common dies, their share of the property does not automatically pass to the survivor.

As Cyprus law follows the forced heirship system, which means that the person making the Will is forced to leave certain proportions of their estate to particular relatives, as opposed to the testamentary freedom recognised under English law

That said, if you have or are about to acquire assets in Cyprus you should consider how they will be dealt with after you die to ensure that the process of administering your Cypriot estate is as smooth as possible for your loved ones.

## Final remarks

Dealing with cross border Wills and estates can be extremely complex and it is advisable to seek legal advice in relation to your wills and inheritance matters.

The best way to deal with your estate in Cyprus is to contact a lawyer in Cyprus to assist you accordingly, especially when assets are located in Cyprus.

Most of the above common pitfalls can be avoided if an experienced, competent lawyer is appointed to handle the property purchase, thus, securing the buyer's rights and protection.

### Our services include:

- Drafting – reviewing of contracts of sale or purchase
- Drafting – reviewing of cancellation agreements
- Legal due diligence on the property and seller
- Drafting Wills
- Title – ownership check
- Land Registry searches
- Inspecting building, planning permits
- Obtaining (where necessary – for 3<sup>rd</sup> country nationals) permission to acquire property from the Council of Ministers

Should you require any assistance for your property purchase and drafting of your will, please connect with us.

### Connect with us

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