

INVESTMENT IN PANAMA - PURCHASING REAL ESTATE

Foreigners (with or without residence permit) can acquire titled real estate in Panama without restrictions. The purchase of a property in Panama consists of the following steps:

Step 1 - Examination of the Title (Due Diligence)

Once the buyer has found a property in Panama and has agreed with the seller on the respective purchasing price and the conditions of the purchase transaction, the data of the property will be verified with reasonable care by the lawyer of the buyer.

In this process, it is clarified whether the real estate is the property of the person who claims to be the selling party and it is analyzed if it is unencumbered. This includes an examination of the property and the title of ownership in the Public Registry of Panama (Land Registry), an analysis of the tax situation at the Tax Authority of Panama, and an inquiry at the Judicial Authority (ongoing proceedings).

In some cases, it is advisable to conclude a preliminary purchase contract to guarantee that the agreement between seller and buyer remains valid until the final completion of the transaction.

Step 2 - The Purchase Contract

The contract of sale is an agreement of concurrence of wills in which a person called "seller" undertakes to transfer a property to another person called "buyer", the latter undertaking to pay a fixed, approved and agreed price for the property or object for sale. The essential elements for this type of contract are the following:

A. Consent: Both parties have to express their free will and in writing.

B. Property: Property belonging to the seller and registered in the seller's name in the public register before the sale is carried out.

C. Capability: If incapable parties are involved, they cannot commit themselves to the transaction alone. Therefore, both the seller and the buyer must have the capacity to commit themselves to the execution of this commercial transaction.

D. Price: The property, object of sale, must have a price assigned in money or by means of a sign reflecting its value.

Step 3 - Public Notary in Panama

In the next step, a public notary in Panama will transfer the purchase contract into a public deed ("escritura pública"), which will then be registered in the public register (land registry) to complete the assignment of the property and transfer it to the name of the purchasing party. For this purpose, the following documents must be presented by the seller to the notary public in a legally binding manner:

1. Certificate of Good Standing of the Aqueduct and Sewerage Institute of Panama (IDAAN).
2. Certificate of Good Standing from the tax authority of Panama (DGI) of the property.
3. Certificate of payment of the transfer tax from the tax authority of Panama:
 - 3.1. Certificate of payment of the capital gains tax (3% of the purchase price - Form 107)
 - 3.2. Certificate of payment for the real estate transfer (2% of the purchase price - Form 106).
4. If the property is an apartment under a horizontal ownership (residential ownership), the seller must additionally submit a certificate of good standing regarding the proper payment of the monthly maintenance fee, issued by the registered property management of the horizontal ownership.

5. If the seller and/or buyer is a company or foundation, it must authorise the sale/purchase of the property by means of an appropriate legal document. In addition, the company or foundation must submit a certificate of good standing from the Panamanian tax authority, which confirms that the annual (tax) duties (annual franchise tax called "tasa única") have been duly paid.

Step 4 - Registration of the Title of Ownership

The registration of the new owner of the property in the Public Registry of Panama usually takes 8 to 15 days. The registration fees depend on the selling price of the property.

Due to Panamanian Law the seller must pay the transfer taxes. It is a common practice that the buyer pays the notary fees and registration fees.

It is possible to apply for an express registration at the public registry for an additional fee of US\$ 300. In this case the new owner will be registered within 24 to 48 hours.