

# The DISCOVERY with Finance



**F**inance is obviously no discovery, however when you have finance on a property you are either about to buy or release capital from a lot may be discovered.

When you buy a property the first document you, the estate agent or your solicitor should obtain is a nota simple. This is an extract of the deed and explains who owns the property, the size of the property both land (if applicable) and dwelling. It also shows any possible charges. Firstly make sure that the person who is selling the property is in fact the person who owns it. It may sound obvious, but properties have been sold by people who didn't in fact own them. The size of the property is very important. As we explained in last month's issue there could be an overbuild not as yet registered. The extra square metres could be an illegal overbuild and will NOT be a part of

the official bank valuation. If the overbuild consists of an added floor on a house, you need to find out if this would ever be permitted by the local council. There is always a risk the extra floor will have to be taken down. You would also assume that when you buy a completely new property the constructor would not build any more than specified in the approved plans. This may not always be the case. In fact it could even happen with an apartment where "spare" space, which according to the building permission had to be spare, at the end of the construction was built in by the constructor and turned into usable living space.

So now we come to the charges. The most common charge is an existing mortgage. If it is a re-sale the buyer of the property could have the mortgage transferred in to his/ her name. If the same amount is needed this could save you money since the bank does not need to take a new charge on the property, also the bank should not charge you a new set up/ arrangement fee.

Do have a close look at the mortgage which is in place though. The interest rate may be very high because the mortgage was taken out a few years ago and the interest rate may not have been adjusted on a yearly basis. This could also be negotiated with the existing bank. Make sure you have the new terms in writing. Never accept a verbal agreement from a bank.

Because interest rates are incredibly low at the moment it will probably be better for you not to take on the existing mortgage. The redemption fee of the existing mortgage is not the responsibility of the buyer only the vendor. You as buyer also have the opportunity to choose another base rate to keep the repayments even lower. If you have contact with a broker which offers these products you could obtain for example a loan in Swiss Franc where the base rate is around 0.65%. As a comparison the Euribor stands at 2,32%. It makes financial sense to take out maximum mortgage on a property you are about to buy even if you chose a traditional mortgage with the Euribor as a base. The stock market has been very shaky to say the least the last few years. But if your funds are in Sterling for example, you will make more money placing your money in a normal current account achieving an interest of around 5%. In the UK this would be subject to tax, however there are Spanish banks offering the same rates but tax free. Of course you are responsible for informing the tax authorities where you reside of this extra income.

It has in Spain become very popular to release capital from ones property. You may want to use the funds to improve the property, buy another one or even invest. As a non resident you can in fact today release up to 75% of the value of your property. Again with finance you may just discover that you are still not the owner of the property although you bought it a long time back. This is frighteningly not unusual. A lot of solicitors do not do what they are supposed to do. When you buy a property your solicitor receives all funds for his/ her services at the notary. At this stage it is very important that the paperwork is submitted to the land registry for the registration of the new owner. Unfortunately this is not always the case and again it will be discovered when you have finance on your property. It is very important you choose the right solicitor. This is impossible to know before hand. However of you contact Orange Finance they are able to put you in contact with the true professionals.

As a matter of fact, the lawyer is a professional who not only should understand and control the paperwork related to a real estate purchase (which would be the main task of a "gestoría"), but a lawyer would also provide these safeguards:

- A. Control of the contract's legal aspects of such an operation
- B. Give advice as to the fiscal circumstances and consequences of this type of operation
- C. Accurately detect and inform about the nature of any charge, lien or encumbrance that your future property has, prior to your purchase.
- D. Give advice and proceed legally, if necessary, in cases of non-compliance with contractual agreements by the other party. These actions would be in the range from extra-judicial to proper legal suit prosecution.
- E. In connection with preceding points, a lawyer should play a dissuasive rôle to potential fraudulent vendors.

**These four points should lead to the conclusion that in most cases, you not only would need a lawyer, but also a good one!** ■

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