

# Buying Property in Bulgaria

## **Why do I need independent legal advice by Yankov & law firm?**

You will need advice on a range of issues that will be very different from the advice needed by a person from Bulgaria buying a house in Bulgaria. You will need to have the Bulgarian system and its implications explained to you.

## **Is the way you buy a house in Bulgaria the same as in UK?**

No. The systems in Bulgaria are very, very different from the English way of doing things.

Generally speaking, however, provided that the appropriate checks are carried out, there is hardly any more need to worry than there is when buying at home.

Unfortunately, very often people buying property overseas take little or no legal advice and are far too "casual" about the purchase and about the signing of legal documents. If they go about things in this way it can turn out badly. There have been so many horror stories of late regarding clients having purchased their dream home in sunnier climates only to find that once all monies had been handed over and completion having taken place, that there is no title to the property, debts still registered against the property, it was built without planning permission or even worse the property doesn't exist. There is no reason whatsoever to suggest that this would ever happen to you if you seek independent legal advice. These worst case scenarios have mainly happened to clients who decided against taking legal advice.

For your own safety, insist on taking proper, independent, legal advice.

## **Can you make all the same checks that you would make in Britain?**

No, because the systems are very different. Every country will vary and will have its own way of doing things. We can only do what is normal in Bulgaria. We cannot turn this into an 'English' transaction.

Remember, though, that every year thousands of people successfully and safely buy houses and apartments. That is what we set out to do for you and what you need independent legal advice for.

## **What are the main dangers when buying property in Bulgaria?**

There is no simple list of dangers that you need to check. For different people

and different types of property or for people who are buying for different purposes the dangers will be different.

Having said that, there are some dangers that arise in every country and every transaction. For example:

- Does the seller have legal title and the right to sell?
- Is the property affected by debts?
- Has the building been constructed legally?

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In addition, in Bulgaria there are other issues that often need special attention. These include:

- If you are buying an older property, what is its real condition? Many are in a very poor state. In line to this we strongly recommend to our client purchasing older properties to fly over Bulgaria and inspect the properties by themselves prior purchasing the property or arrange a technical surveyor to do so.
- If you are buying a new property, is the specification clear and in detail?
- Is the existing planning status of the property clear? Does the property have a Permit for use?
- Does the property have good title?
- If you are buying a building plot, is it in an area programmed for building?
- Are the boundaries of the property clear?
- Is the Seller asking for illegal "black money" payments?

Once you have found a property that you would like to buy you will almost certainly be asked to sign some form of reservation or preliminary contract. It is far better to sign NOTHING until it has been checked by your lawyer.

### **Bulgarian mortgages**

Under the influence of the global economic crisis, most Bulgarian banks have heightened loan requirements.

When referring to the Bulgarian mortgage market it is difficult to predict the formalities, paperwork, timescale or complications likely to be involved in taking out a Bulgarian mortgage. If required, we can assist you to take out a mortgage to buy the property.

### **Who should own the property?**

In Bulgaria the only way you can own a LAND is by owning a local (Bulgarian) limited company that, in turn, owns the property. You are permitted to have total control over that company. If you are going to buy an apartment you can choose whether to own it in your own name or via a company.

## **Are there any restrictions on a foreigner owning property in Bulgaria**

Yes. In Bulgaria, the law states that only Bulgarians can own either land plot or a building plot. Fortunately, a Bulgarian company, even if 100% foreign owned, is considered as a Bulgarian. So a foreigner wanting to buy land can do so through a Bulgarian company.

## **The 'Reservation Contract'**

A Reservation Contract (Rezervatzionen Contract) is a contract, usually short, under which you pay a small amount of money, the so called reservation fee. The main purpose of such a reservation is for the buyer to assure that the property is taken off the market – usually for a limited period of time – and for the seller to assure that the buyer is really interested to proceed. This contract will usually give you 2 - 4 weeks to make the necessary enquiries and sign a Preliminary Contract. During this period your lawyers can check things out and negotiate the content of the Preliminary Contract. If everything is in order you then sign a preliminary contract and pay over a full deposit. Please check out whether the reservation fee is refundable or non-refundable in case you decide to pull out the purchase.

## **After you have signed a Reservation Contract**

We carry out, or arrange for, a variety of checks to make sure that the property is what it seems. These usually include checks of the following documents requested from the Seller:

- Notary Deed for the property of the plot / the apartment;
- Layout of the plot;
- Burden Certificate of the plot/ the apartment;
- Documents for the change of the status of the land in case it used to be agricultural /for instance Detailed Regulation Plan/;
- Approved Investment Project and the Architectural plans;
- Building Permit;
- The rest documents which prove the relevant construction stage for off-plan purchases.

Once all of the steps appropriate in your case have been taken, we shall give you our general observations and our opinion as to whether we think that it is, from a legal point of view, safe to proceed with the purchase.

## **The 'Preliminary Contract'**

Preliminary Contract (Predvariteln Dogovor) is a legally binding contract to buy the property. This is a commitment to buy. This contract fully describes the property to be acquired as well as all the terms and conditions of the purchase.

It is followed up by a formal contract of purchase (Title deed), so to that extent it is a preliminary contract, but it is legally binding.

If you do not go ahead with the purchase you will most probably lose a certain amount of money depending on the stipulations in the Preliminary Contract you have signed and may face further action from the seller. Thus we would advise you to try to avoid signing one of these at this stage before you've been advised by your lawyers to proceed.

Often, however, you may come under pressure to sign a fully binding contract ('Preliminary Contract') at this very early stage before anything has been checked out. If there is no alternative ALWAYS get it checked by your lawyer before you sign it.

If you are taking out a mortgage in Bulgaria we will need to liaise with your mortgage broker/ lender. Please bear in mind that it is essential to inform us about your intentions to take out a mortgage prior the negotiations of the Preliminary contract so that we can enter the relevant stipulations within the contract reflecting the way of payment.

Please bear in mind that all titles deeds in Bulgaria are registered under the name of the owners but not under the number of the property which may create confusion because the system is non-computerized and sometimes it is very difficult to make checks for all notary transactions of the property back in time. Do not worry too much. It is perfectly possible to buy property with its history properly and legally recorded. You just need to be particularly careful and get good legal advice before you commit yourself to a purchase.

### **After you have signed a Preliminary Contract**

Once you have signed the Preliminary Contract (Predvariteln Dogovor) you are committed and you can only 'escape' from the contract for good legal reasons those stated in the contract or laid down by the general law. It is, therefore, VITAL that you and your lawyer are entirely happy with the terms of the purchase before you sign any contract.

In case you are buying off-plan property in most of the cases the purchase price is paid in installments. So we shall verifying that the developer's request for further payment in the contract is properly due.

We will, in many cases, prepare a Power of Attorney authorizing a representative of Yankov & Co to sign the Final Contract of Sale, the so called Title Deed (Notarialen Act) on your behalf (see below).

In any case, we will have to liaise with your Seller and, when everyone (and the property) is ready, we will make an appointment at the Notary (Notarius) for the signing of the Final Contract of Sale/Title Deed (Notarialen Act). We will negotiate the content of the Final Contract with the Seller to ensure that your interests are fully protected.

### **The Final Contract/Title deed (Notarialen Act)**

In the case of a new property, eventually the construction of your property will be finished and the 'Act 15 certificate' is produced to say that all construction works have been completed. Still the building is not ready for habitation.

The Act 16 certificate (permit for Use or Certificate for entering the building into operation) is the one which confirms that the property is ready to be treated as a dwelling and can be legally habited.

It shall be explicitly stated within your preliminary contract when the final installment is due.

The price you declare in the Title deed as the price paid for the property should, legally speaking, be the full price paid. This is the value used to calculate all of the taxes arising out of the transaction (notary fees, local tax, stamp duty). Declaring any other value can lead to all sorts of problems, (ex. increase in the Capital gain tax you will have to pay if you decide to re-sell the property).

### **Do I have to be in Bulgaria to complete the transaction?**

Generally you don't need to come in our law firm's office. Conveyancing services are done on a remote basis. Still it's a good idea to be present at the time of delivery of the apartment/ house and to accept the property and to do the snagging by yourself. Also some of the documents need to be signed by the client, notary certified and legalized, so that we can carry out the relevant checks of the property and sign the Title deed on behalf of the clients.

Once the Notarialen Act has been signed the notary will make arrangements for your title to be registered at the Land Registry. This action is to be performed by the notary in front of which the notary transaction has taken place.

Just before having the notary transfer of title to you we shall remind you to transfer to our clients' account the notary taxes requested, so that we will arrange for the payment of any property transfer taxes due (notary fees, stamp duty and local tax) in relation to the transaction. At the present moment in most parts of the country they amount to about 3.5% of the purchase price of the property, declared in the Title Deed.

### **Technical surveys**

As is the case with the purchase of a property anywhere, it is often prudent to have the property you intend to buy surveyed. We strongly recommend a survey, especially in the case of older or unusual properties or in the case of properties that have been extended or modified. In case you are purchasing off-plan property it is very essential to have the property specification agreed in detail. It is also important to know how you shall deal with signing of the Acceptance-Delivery Protocol (known in UK as snagging list). It can be a good idea to have a new property surveyed (inspected) before delivery to establish whether there are any defects present.

We can, if you wish, make arrangements for such a survey and will be pleased to advise about the merits of doing so.

### **The Role of the Notary (Notarius)**

In most countries in the world the Notary (Notarius) plays a major part in the process of buying and selling real estate. The Notary is an official who is there to put on the public record the fact that the formal documents recording the sale/purchase have been signed in his or her presence and understood by the parties concerned.

The Notary also carries out a number of checks as to the status of the property and/or the buyer and seller.

Please note that the Bulgarian Notary is an entirely different figure from that of the lawyer and specializes exclusively in the recording of deeds and other public and private documents.

### **After you have signed the Title deed**

We will start dealing with the post completion registration of the purchase – BULSTAT registration and tax registration within the relevant state bodies.

### **What taxes will I have to pay as the owner of a property in Bulgaria?**

As a non resident of Bulgaria you will have to pay certain taxes in Bulgaria and you will also have to declare any income and gains in the country where you are tax resident.

### **Revising our Estimate**

We try to stick to the estimated charges set out above but if the transaction becomes unusual or unduly complicated for any reason, we reserve the right to revise our charges. For example, we have had situations where the sellers or buyers have fallen out between themselves. Or where the property has become the subject of a court case. Or where there have been defects in the title or planning situation. Or where there has been delay in the construction. Or where the money has been lost or delayed in transit by the bank. Or to set up a Limited Company to buy the property. Or to organize technical survey (inspection). Or to assist you to take out a mortgage to buy the property. Or where you wish to negotiate substantial changes to your contract and etc.

### **Payments on Account of Fees & Expenses**

We require an initial payment on account of our fees and expenses upfront before opening a new case. If you do not make the payments requested we reserve the right to stop work!