



HOME SECURITY

Tasos Coucounis explains the safeguards that exist when investing in immovable property in Cyprus

IN PAST DECADES, Cyprus has attracted attention due to its popularity as a second-home investment destination, as well as its investor citizenship and residence schemes, through which investments are made through acquisition of immovable property on the island.

While the possibility of considerable rental yield has made it worthwhile to consider investing in Cyprus' real estate sector, investors and professionals advising clients should be aware of the safeguards that exist in the Cypriot legal system to protect such foreign investment.

CYPRUS-SPECIFIC PERFORMANCE LAW

In a straightforward property transaction, where the immovable property in question has its own certificate of registration/title deed, the transfer of title from the vendor to the foreign purchaser at the Cyprus land registry is a simple procedure that incurs only the basic transfer fees, which are currently reduced by 50 per cent by incentive legislation.

However, most of the newly built properties on the island have remained without a separate certificate of registration/title deed for many years, due to delays in completing the necessary paperwork by vendors or government departments. Further, most properties are encumbered by charges in favour of banks that provided loans for the construction and development of such property projects.

In order to protect foreign and local purchasers of immovable property, the Cypriot legal system has a 'specific performance' legal framework that assists the purchaser in securing the ownership of the investment by lodging the sale contract used for the property

purchase with the land registry. This enables the purchaser to seek judicial protection through the means of 'specific performance' in the event that the vendor neglects, or does not comply with, the legal requirement to transfer the property title in the purchaser's name. Specific performance is the judicial remedy that orders the transfer of the legal ownership in the purchaser's name at the land registry without any involvement of the vendor of the property.

The *Sale of Immovable Property (Specific Performance) Law of 2011* (the Law) has undergone several amendments over the years to assist as many foreign purchasers of immovable property on the island as possible to secure legal ownership of their investment.

THE SAFEGUARDS

First, when dealing with a newly built development financed by bank loan, the Law in its current form enables the foreign purchaser to pay a proportion of the bank debt that corresponds to the share of the property bought directly to the bank. In this way, the purchaser's sale contract takes precedence over any pre-existing mortgages or charges filed with the land registry in favour of banking institutions, thus allowing the purchaser's right to specific performance of their contract to remain intact.

Second, if the purchaser of immovable property in Cyprus has not yet received their title deed, the Law enables the purchaser to liquidate their investment by assigning the rights emanating from the sale contract to a new purchaser. The new purchaser is then allowed, by the Law, to deposit their assignment agreement at the land registry for specific performance purposes and thus be protected in their

investment similarly to the previous owner of the property.

Third, foreign purchasers who are not aware of the island's legal system and failed to lodge their sale contracts with the land registry in the past are allowed to apply to court and obtain an order allowing them to deposit their sale contract with the land registry for specific performance purposes.

Fourth, although not provided in the Law itself, when foreign purchasers are conducting their negotiations for the purchase of immovable property in Cyprus, it is possible to ask vendors for either personal or bank guarantees for the faithful performance of the vendors' obligation to issue and transfer the separate title deed in the purchaser's name, thus ensuring that this is undertaken as an additional personal obligation by directors or shareholders of vendor companies.

Finally, depending on the circumstances, the foreign purchaser is in a position to ask for the purchase price to be paid in instalments over a period of time, allowing for the final instalment to be paid on transfer of the title in the purchaser's name.

CONCLUSION

Immovable property ownership in Cyprus remains attractive, provided foreign purchasers take advantage of the island's legal system and the safeguards it bestows on them for the protection of their investment.



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