



Buying a Property in France

A Legal Service

Whether it is a holiday home, buy-to-let accommodation or a commercial venture, buying property in France can sometimes be seen as a daunting experience. You will need to work with various professionals en route to completion and this guide offers you some pointers on what you can expect on your journey to becoming a French property owner.

1. The Estate Agent

Your first contact is usually the estate agent who will help you find a property in France based on your requirements, or if acting for the vendor will actively look for a buyer. The estate agent's commission is usually paid by the buyer and this is one of the issues that is agreed at the start of the transaction.

In France, all estate agents must be registered with the local Chamber of Commerce and the activities of the estate agent are regulated by a specific Act: the Loi Hoguet. One rule that is stipulated by this act is that all agents must have a professional card (*carte professionnelle*) that allows them to carry out the business of estate agency, and it is always advisable to check this accreditation prior to instructing them.

A buyer is likely to sign three different documents with the estate agent: the visit receipt, the agency agreement and the preliminary agreement.

A. Visit receipt

A potential buyer who has visited a property may have to sign a visit receipt (*bon de visite*) to provide the agent with evidence of this visit. This document is not an agreement and can be safely signed without binding the buyer to purchase.

B. Agency Agreement

Before any negotiation or commitment, an agency agreement (known as a *mandat*) between either a vendor looking to sell a property or a buyer looking for a property must be signed with the agent.

The *mandat* must comply with strict legal requirements and any non compliance or breach of this *mandat* would render it partially or entirely null and void which would prevent the agent from being entitled to a commission. It may include an exclusivity clause which must clearly appear in the agreement. This exclusivity forbids you to deal with another professional to sell the property or to sell it directly, failing which compensation would be payable to the agent. If the agent agrees to it, the exclusivity clause can be modified to allow the sale by the vendor himself but not through another professional.

C. The preliminary agreement

The form of the agreement presented will depend on the type of property purchased with varying conditions. A buyer will not be committed in the same way as a result of signing one type of agreement or another.

TIP:

In many instances, an agreement commonly known as a *compromis* will be prepared. This agreement is binding and once signed it is usually difficult to modify anything so it is important to make sure that all clauses are suitable prior to signing and giving your agreement.

2. The Lender or the Broker

You may have already approached a lender but if you require a loan to finance your property, then as in the UK, a loan broker will be able to assist you in your decision to carry out the procedure with the chosen lender.

French law affords a degree of protection for the borrower when applying for a loan to finance a property transaction. Hence, the borrower must be well informed about the nature and importance of the commitments made. French law enforces strict regulations with which the preliminary offer of the loan must comply.

A 10-day period is then given to the borrower to fully review and understand the information and to decide whether to go ahead with the loan; this is known as a cooling-off period.

When borrowing to acquire, it is necessary that you are committed to both the purchase and the loan and not just one or the other. Therefore, if the contract states that the price is paid directly or indirectly by means of a loan, then this contract is under the legal condition of obtaining this loan.

Thus, the failure of the loan application usually invalidates the purchase.

3. The Currency Broker

As an alternative to a bank, other specialists such as currency brokers may present a better option to manage your international payments. In some cases, currency brokers may beat the exchange rates offered by banks. In the UK, reputable currency brokers will

TIP:

Payment of a French property purchase can be made in another currency if the parties are entitled to do so (e.g. British Pounds Sterling when both buyer and seller are UK residents) although the price mentioned in the completion deed would still have to be in euros.

4. The Notaire

Notaires usually get involved at the stage of registering the deed of sale on completion. “*Notaires* are public officers, authorised to receive all deeds and contracts to which the parties have or want to give the character of authenticity attached to acts of public authority, and to ensure the date, keep its record and deliver the original deeds or copies” (Order n°45-2590 of 2nd November 1945 relating to the status of *notaires*). *Notaires* have received delegation by the French State to act on behalf of private parties.

In Britain, it is common practice when purchasing a house to have two different lawyers acting for the respective parties. In France, the registration of the deed must be carried out by a French *notaire* who is not representing either the vendor or the buyer. It is therefore strongly advisable to appoint another lawyer. In addition, the *notaire* is a tax collector and has not necessarily any knowledge of the rules applied in the UK. As a result, he will not necessarily work in both the parties’ best interests.

5. The Lawyer

As soon as a property has been chosen, a lawyer that specializes in French property can assist with all of the above and more generally with all the legal aspects of the transaction.

As mentioned, the first contract which in most cases is binding on both parties is, unlike in the UK, often drafted by the estate agent responsible for the sale. The risk here is that as the estate agent is not a legal specialist, the buyer is at risk of signing a deal that does not protect his/her interests or wishes. This is why it is very important to have a lawyer that can review and amend the contract clauses in order to efficiently protect the client’s best interests.

A French lawyer can also provide advice in relation to the property purchase and generally liaise with all parties involved in order that the buyer’s instructions are implemented correctly. Such ancillary matters for which you may seek advice include tax or inheritance issues.

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Guillaume Barlet is a London based French lawyer (*Juriste*) and specializes in resolving issues and anticipating cross-border matters for private individuals.

Guillaume has in-depth experience in French real estate, estate planning and taxation including the acquisition and sale of French properties. Please contact Guillaume Barlet at Cubism Law for further information. Property:

- Advised on the purchase of a €1,000,000 off-plan property by a couple with children from previous relationships, setting up of a French company to facilitate the estate management and secure a transfer to the children in equal shares preventing any hindrance from French inheritance rules
- Advised on the purchase of property in St Barthelemy (French independent territory) for a price of about €5,000,000 and setting up a company for estate planning purposes
- Advised not to purchase a €542,000 off-plan property which funding was shared with my clients' son and his wife, as the developer's contract offered not enough guarantees
- Advised on the purchase of a €300,000 farm and land owned by nine co-heirs to be converted into a house for which planning permission was a condition of the purchase
- Advised on the purchase of a €750,000 property by a couple moving permanently to France and estate planning including a marriage contract and wills to transfer their estate in unequal shares
- Advised on the set up of a €150,000 loan from a US private individual to fund works on a property purchase at €130,000, the loan agreement included a third party acting as personal guarantor

Testimonial

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“Guillaume Barlet proved to be our saviour. His attention to detail, expert knowledge of the process of buying in France, coupled with a very personable approach, took us through every step of the way, including absolutely essential Estate and Inheritance planning. I would recommend Guillaume to anyone who is looking for an excellent service and complete peace of mind that the very different French buying process runs as smoothly as possible.”

- Steve, Managing Director
– Gloucestershire, UK

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We call ourselves **Cubism**. That one word pays homage to who we are and what we do, imaginative and agile problem solvers, relentless in the pursuit of excellence and the search for answers clients seek. We set the bar high because that is what we expect of ourselves and our clients expect of us.