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Free initial advice

15 STEPS TO PURCHASE A REAL-ESTATE PROPERTY IN FRANCE
FROM A FRENCH LAWYER'S (Avocat) POINT OF VIEW

This article was written to give you an overview on the property process in France if you are foreigner, wish to acquire your dream holiday retreat or your forever home and prevent any embarrassing situation.

We, avocats, can help making sure the process is going smoothly by supervising the whole process or/and drafting the “compromis”.

Find out more on www.cad-avocats.com or call us now on +33 6.74.16.11.12.

BEFORE YOU MAKE AN OFFER

1. When am I bound?

The first thing you need to bear in mind is that under French law, the sale becomes legally binding a lot quicker than you would imagine.

If you exchange with the vendor and both agree on the property and a price, you have exchanged consents and under French civil code in theory you are considered as the new owner. So as a buyer you need to be extra careful with what you say but more importantly with what you write in your emails to the vendor!!

2. Who sells properties in France?

-Individuals, directly,

-through a notaire,

-through an estate agent,

You may purchase a property directly with another individual and you will save around 5 % of the overall property price if you do not use the services of an estate agent.

You **MUST** use the services of a notaire as it is the sole legal profession who handles conveyancing in France (it is also true if you wish to draft wills...)

Their fees would be of around 10-12% of the overall property price (on top of the agent if you use one).

These are wrongly called notaire’s fees as only around 2% of this is going to their offices and the rest is collected by the notaire but transferred to the French tax authorities. Some of these taxes are collected for the property title to be modified with the name of the new owner and for the state.

3. Prices

When an agent intervenes, the price usually includes the agent’s commission.

The agent will request that you sign a “bon de visite” once you have visited a property with them. Please note that once you have signed this document, depending on the clauses of the document but it is very likely that you will no longer be able to contact the owner directly without paying the agent for the process!

WHEN YOU ARE READY TO PROCEED

4. How to make an offer and when

As stated previously, you need to be sure you wish to acquire the property you have visited, in the state it was in when last seen, if so, you may accept the offer made by the vendor.

Ideally you wish to appoint an architect who would act as surveyor to check the solidity of the built...an architect is perfect as it is a “profession libérale réglementée” who has to have a professional liability insurance to be able to practice.

Please note that surveys are not mandatory in France.

I would ask the vendor to provide the compulsory by law diagnostics as soon as you have a genuine interest in the property.

These reports are meant to give you essential information in regards to the heating system, electricity, on the presence of asbestos, lead, termites...

Usually they are available straightaway. If not and if you have not chosen to be helped by a professional builder or architect, I would recommend that you do not make an offer before you have additional information on the building through these.

You also need to get information on the land, make sure of its size (Do not take the vendor’s word for it), if any major build is planned. For this, go to the mairie or even email them. Small mairies might answer you in a couple of days.

Once you have all the above, you can make an offer.

The offer could be made through an email or through a written note. If you have a doubt about something that is very important to you, say that you wish to buy for a certain price but only if some conditions are met. For example, if you wish to work from home and you need to have a good internet connection but the property is in the middle of the countryside and you have doubts on it being equipped with fiber, then state in the initial offer you are making that you offer to purchase the property provided that the internet connexion reaches a certain speed as you intend to work remotely. The above is called a conditional clause and if any is written in the initial offer, to still stand, it will have to be drafted in the “compromis”.

For more tips on how to make sure an offer is drafted the right way, contact us. It is not necessarily complex but it needs to be done” properly”. We are here to help.

5. How to proceed once found the property?

You have different options.

The deed that needs to be drafted to proceed is called “compromis de vente” or preliminary sale agreement.

It can be drafted by an estate agent, an avocat or a notaire.

You might think I am biased, and I might be but experience has taught me to avoid agent’s templates at all costs and here is why.

They are not legal professional and usually they use template provided by their organisations. They usually ignore how to individualise the template provided to them. The last thing you want is to have a contract that does not reflect precisely the situation between you and the seller. It is especially true if the house is old and needs TLC as you might wish to consider adding “clauses suspensives” to the “compromis de vente”.

Please see definition of “clauses suspensives” below in point 7.

6. What is included in the “compromis de vente” (first deed out of 2)

Two deeds need to be signed.

The first one is the “compromis de vente” and is a contract describing the obligation of the parties, the property, the price agreed on, when the second and final deed needs to be signed, any “clauses suspensives” that if occurring would mean you must buy the property.

The second deed or “acte de vente” also called “acte de réitération” cannot be drafted by an estate agent or an avocat but can only be handled and drafted by a notaire.

The final deed will make you become the new owner officially.

7. “Conditions suspensives” or conditional clauses in the compromis. What is it?

These are conditions that may allow you to get out of the buying process without costing you anything.

These need to have been prepared **before ANY offer on the property is made** and especially before you sign the compromis with the notaire, the avocat or agent.

You can add any clause you wish provided the vendor is willing to accept these.

Usually and automatically the notaire will ask if you need a mortgage and if this professional draft the compromis, he/she will remember to include this clause in the compromis.

If you are considering buying an old house, and you are uncertain of how much work there is, attempt to draft a clause that limit the amount of work to be done and then between the compromis (first deed) and the final deed (“acte authentique”) have a

professional looking at the building. However, I would advise that you do not sign any “compromis” before you have a precise idea of how much needs to be done and after you have analysed the reports (on electrical system, heating system...)

8. I cannot be in France to purchase, what solution do I have?

A power of attorney may be drafted if you have found the property you were looking for.

Usually this deed is drafted by a notaire.

Please beware that all the clauses of the “compromise” will be in the power of attorney and basically the “clauses suspensive” need to be determined before you can sign soundly the power of attorney.

9. Should I appoint my own notaire to handle the process?

Usually the vendor already has the name of a notaire to handle the process. Often it is the notaire’s of the family.

You are allowed to take your own and I would recommend it.

The notaire is supposed to act on behalf of both parties and be impartial when there is only one.

As a buyer you will be the one to pay for the notaires’ services anyway. If two notaires are appointed, they will split the fees for the process. There will be no extra cost. They are not always happy to split the fees but that is another matter.

10. Is it safe to handle the purchase process without being fluent?

You will be able to find estate agents and even notaire speaking English but you need to know that all the deeds will be drafted in French. Notaires may speak English but are very reluctant to write English and I have never met a notaire in France willing to draft the deeds in French and English, probably for insurance reasons.

Whatever help you seek you need to understand all the clauses in the contract and its consequences in the future for you.

One tip: **if something is not in the deed, and even if it was said or agreed by ANYONE in the process, it DOES NOT EXIST!**

Also, professional interpreters/translators are not legal professionals and they are not always aware of the full meaning of all the legal terms used so they cannot advise you, and it is not their job.

Help cost extra but it can prevent a lot of troubles.

Think twice before choosing the professionals who will assist you in the buying process.

So, the answer is yes but if you are really willing to avoid problems, you have to seek help to make up for not being fluent.

11. There is a deadline in the “compromise”, is it binding?

BEWARE: a date will be included in the “compromise” and a lot of foreigners ready to invest think that this date is binding and expect the final deed to be ready on that date or wish to forget about the whole operation if not finalised by then.

Please note this date is not legally binding and that is more for the parties' information. Once the “compromise” signed, you are bound by it and unless one of the “clauses suspensive” is not met you cannot change your mind without financial consequences.

ONCE YOU HAVE MADE THE OFFER

12. Cooling off period and deposit

From the signature of the “compromise”, you have 10 days to change your mind.

Once this period has passed, you will need to pay a deposit to the notaire.

Usually it represents 10% of the overall price of the property.

If you change your mind, depending on the circumstances, you could lose your deposit if you stopped the buying process (and eventually liable to pay a penalty clause included in the “compromise”)

13. What is next?

You need to find a notaire to draft the final deed.

Tips on notaires: If none intervened so far, rely on word of mouth to find one. In regards to English language social networks might help or last resort is lists provided by embassies.

Bear in mind that notaires already have a lot of work and will not be as proactive as you would want, except the notaires in our network. For more information, contact us.

They also can assist even though the property is not located nearby (as they intervene nationwide).

And last but not least, as notaires are the only legal professional in France in charge of conveyancing, their fees are regulated and determined by the French government so they will all charge the same wherever the location of their offices. If you are foreign, pick one with experience in cross border cases and international private law. (it does not necessarily mean that they are located in big cities)

Searches on the property will take place such as land registry in regards to ownership, boundaries, easements. (it is a very important part of the buying process)

In terms of planning permission AROUND the property, it is up to you to gather the information if you do not want to end up with a motorway in front of your front door, except if you included this in your compromis as clause suspensive! That is why it is paramount to gather information on the property and its location BEFORE making an offer)

The whole process is not quick especially with two notaires and in accordance with how many vendors there is. (if the property is coming from inheritance).

14. Last visit

You need to visit the property **before** the final appointment with the notaire as you will buy the property as seen on the day the final deed is signed.

A last visit a couple of days before the appointment is fine.

15. Acte authentique (second and final deed)

This deed will officially transfer ownership.

You need to transfer the property price **before** the appointment at the notaire's offices, and bring evidence on the day of the appointment that you have house insurance for the new property. ("attestation d'assurance habitation")

Disclaimer: This article is for general information only. Each situation is different. Individual, **independent** and professional advice should be sought for this process no matter how easy you think this is going to be for you or how much you want the property you viewed which is a real bargain!!!!