

# Will my **debt** continue to chase me if I return to my home country?

Our foreign clients often ask this not so familiar question of our legal professionals.



**Gustavo Pimentel is the Head of the Litigation Department at Lexland Abogados**

#### **Lexland Abogados**

Ricardo Soriano 34 1º  
Marbella  
Tel. +34 952 778 899  
Fax +34 952 766 966  
dcuesta@lexland.es  
lexland.es  
foroconcursoacreedores.com

**E**ven with the increase in the cases of houses being auctioned off over unpaid mortgages, not to mention the toughness that this situation brings; it is still common that the amount obtained by the bank does not cover the amount owed. Of course this is not taking into account cases where the banks have overvalued the property at the time of purchase, which result in virtually no cases of foreclosure and the debtor can often be relieved of the entire debt.

This situation is compounded by the fact that unlike other countries; where the auction of the mortgaged property, whatever the result, means you are granted exemption from paying the remainder of the debt, is not the same as the regulations in Spain. In Spain any excess not covered by the sale of the property is still required to be paid, and the option of payment in kind is neither a legal method nor solution used without exceptional circumstances.

Not only for this cause, but also with respect to other debtors in similar pending situations (community fees, bills, taxes, etc.), there exists the possibility that the total of your debt could be reclaimed or pursued against property of rights of whomever is titled as the debtor even in your home country. That is to say that the document is recognised as valid debt to any public (Judgement/Deed).

Without wanting to be too detailed, there are two standard principles, alongside additional rules dependent on the debtor's home country regulations. Regulation (CE) no 44/2001, 22nd December 2000 on jurisdiction, recognition and enforcement of civil and commercial judgements, and Regulation (CE) no 1896/2006 of the European Parliament and Council of 12th December 2006, establish the European Monitoring System and are both practiced regularly.

The creditor has two procedural possibilities, to start a procedure here and have the sentence obtained before the Spanish tribunals, executing it in Spain, or to initiate proceedings in the country where the debtor is domiciled, for example through a method that opens the European Monitoring System.

Our advice from Lexland Abogados is that you are assessed by the qualified professionals which we have at our disposition and allow us to make an agreement with you where we can renegotiate your debt, as is the practice of current markets due to the high default rates involved. This gives us the opportunity for you to receive a reduction in the amount claimed, potentially waiving the interest generated, or dividing the debt.

