

# Obstacles for the registration of a property purchase in Spain (FAQ)

2013 has started with legislative changes in many areas that are beginning to concern citizens and all legal operations in the real estate law field, a branch of law that is always a locomotive during an economic recovery.

Amongst the changes that have come into force on the 1st January 2013 there is one that is going to raise numerous controversies, claims and that is creating a situation of doubt that needs to be clarified immediately by those, who on one hand have created the problem and on the other, those who have the responsibility of advising their clients. I refer to the non-registration of documentation in the Land Registry (in this case, a property purchase or sale) if you have not previously accredited filing self-assessment or, where applicable, the tax return, or a notification under the Act, in connection with any Tax Increment Value of Urban Land (Plusvalia Municipal).

That's what Law 16/2012 establishes, by adopting various taxation measures aimed at consolidating public finances and boost economic activity (which will once again redefine the concept of momentum ...), and that Disposal in 4th, amending art. 254 of the Mortgage Law. Many doubts and questions assail us:

Will the Registrars really not register a sale with all parameters given and legal requirements, because filing self assessment or tax returns has not taken place? For the purposes of "their business", if they do not complete the registration they cannot charge their fees ...

Is the solution to proceed with communication established by art. 110.6.b) of the Law Regulating Local Tax? Is it enough to provide the deed signed by seller and buyer, informing the Municipality concerned in writing? Or should the deed be submitted to the City Council, to the Land Registry itself so that they have it for the purpose of registration?

The rule omits that the communication should be part of the deed or done subsequently to it, prior to registration. Will the communication serve the Registry for the purpose of complying with art. 254 LH?

What happens when the payment of the plusvalia, which is paid by the seller (although susceptible to an agreement so that it is paid by the buyer), and this one as a resident suffers no retention (which is recommended in cases of non resident vendors) made by the buyer, but neither paid nor communicated.... Should the buyer always as a precautionary measure, create a communication to ensure the registration of the sale as he is the one is really interested in the registering taking place?

Certainly, one thing is clear: too many obstacles for the real estate business, when things should be simplified. If you have any queries with regards to this matter please contact a professional.

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Juan Luis Gamez provides comprehensive services to both Resident and Non-Resident Clients in relation to real estate law in coordination with all civil, commercial and fiscal aspects, as well as with the rest of the services involved.

Lexland Abogados is able to help advice you on all legal and fiscal matters.

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