



BUYING A PROPERTY IN FRANCE

The notaire is unlike most European solicitors/lawyers as he is not appointed to act for either party in the transaction, but as a public official whose duty is to the State.

Their function is to ensure that the transaction is carried out legally and accurately and in accordance with the proper processes and to give the transaction absolute validity that cannot be contested.

I. PRELIMINARY CONTRACT

Once an agreement is negotiated between a buyer and a seller, the promise of sale is prepared by a real estate agent or a notaire. It can be either a *Compromis de Vente* or a *Promesse unilatérale de vente*. This is a legal document binding on both parties, provided a few conditions precedent are satisfied.

A surveyor is appointed by the seller in order to check whether there is lead, asbestos, or if there are termites, problem with the wiring, the gas system or natural risks.

If the buyer intends to take out a mortgage, it is necessary for this to be declared at the time of the agreement and a substantive clause in the contract protects the purchaser's interests in the event that a loan is not made available.

At this stage the buyer pays a deposit of a percentage of the purchase price which remains 'blocked' in an escrow account at the notaire's office until completion of the authentic act of sale takes place, or the purchase is aborted.

Once the contract has been signed there follows a period of generally 6-8 weeks in which the searches are carried out and during which time the purchaser will be required to obtain any financing for the purchase.

These searches are carried out by the notaire.

If the buyer does not get his loan approved, the sale does not proceed and the deposit is returned.

Should the buyer break the contract, the deposit is paid to the vendor as an indemnity - conversely, should the vendor break the contract, the deposit is returned to the purchaser.

Once all enquiries have been made and the notaire will ask for the payment of the sale price and all costs. The transfer of funds onto the notaire's bank account must be made nearly ten days before completion.

II. AUTHENTIC ACT OF SALE

The act established by a notaire, signed by the notaire and dressed in the seal that confided to him the State, is an 'authentic act', also called 'notarial act'. Indeed, the notarial act establishes in France the highest degree of proof.

It can be signed electronically, that is to say on a digital support. The price and old cost and fees must be paid before completion.