



Andalusian
Lawyers News *June 2006*

In February 2006 the Andalusian Parliament passed an important law which aims to protect the rights of property buyers, particularly those buying off-plan. This law (Rd 218/2005) applies only in the Andalusian territory and tightens controls on developers and agents selling on their behalf and it applies a scale of fines already approved by a previous Andalusian Law: 13/2003.

Under the law developers and estate agents must provide potential buyers with a sales document containing the following information:

- 1.** Name and full details of the development company and the estate agent if one is involved.
- 2.** Name and full details of architect, "director de obra" (building manager) and building company.
- 3.** A plan of the location of the property, plan of the apartment/house and extras (minimum scale 1:100).
- 4.** Size of the property.

5. Description of the property, details of utility supplies and fire protection measures.

6. General description of the building and development, plus communal areas.

7. Quality of the materials used in the building, total price of the property and extras, taxes payable by the buyer, other expenses and how they must be paid.

8. When stage payments (prior to the completion of the building) are required from the buyer.

The document must state that the payments will be protected by a bank guarantee, state the name of the bank, address, and the account number where these amounts will be deposited.

9. Proof of the developer's right to build on or use the land (eg. Title deeds) and reference to any charges and encumbrances on the land.

10. Proof of building license or that the land complies with local planning regulations and can be built on.

11. The current stage building work is at.

12. Date of completion of the property and communal areas, the year AND the quarter of the year must be clearly stated.

13. Charges and encumbrances on the property.

14. State what sort of contract will be signed, in particular:

A) the buyer is not obliged to pay any charges that by law should be paid by the developer (for example, the cancellation of the developer's mortgage, costs of issuing the bank guarantee, etc).

B) The buyer's right to choose the notary, (the developer cannot impose the notary where the deeds will be signed)

C) The possibility of any of the parties to call the other for the signing of title deeds.

D) the buyer's right to be given in advance a copy of the private contract to be signed.

Well, this new law helps a bit. we would say though that it doesn't makes clear (and it should) whether the bank guarantee should be given to the buyer when the private contract is signed, but at least it states that it must be given full information about the bank which finances the development and the special bank account where the instalments must be paid into, this is enough base to start an enquire in that bank or insurance company with regards to the solvency and formality of the developer.

As **Andalusian Lawyers** always advise, when the contract is signed, if the bank guarantee is not ready the developer/agent must give a copy of the "contrato de aval" (contract between developer and the bank which obliges the bank to issue individual bank guarantees on request of buyers. We also advise that the contract states which day the bank guarantee will be issued, giving the right to claim the deposit back if the developer doesn't comply with that clause.



Andalusian Lawyers, your independent lawyers in Southern Spain