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REAL ESTATE AND PROPERTY IN CYPRUS **A valuable legal guide for the buyer**

INTRODUCTION:

The favourable location of Cyprus at the crossroads of Europe, Asia, the Middle East and Africa, together with the fact that Cyprus is a full member of the E.U. as of May 1st, 2004, its safe and protective legal system, the excellent infrastructure the high standard of legal, banking and accounting services provided, the continuing development of the island, the extensive use of the English language, the excellent climate and the hospitality and friendliness of the locals, are some of the reasons that established Cyprus as an ideal centre for both business and pleasure and thus attracted to the island a considerable number of individuals and foreign investors interested in immovable property.

LEGAL SYSTEM:

The legal system in Cyprus is generally based on common law and our legislation is, to a large extent, modelled on the respective English legislation. However, in the field of Immovable Property Cyprus legislation and the legal system in general is considerably different than the one applied in the U.K.

First of all, the protection of ownership is safeguarded by the provisions of the Constitution, the ultimate Law of Cyprus, which establishes the equality of all persons and the respect for human rights, including the right to ownership, without discrimination.

According to Cyprus Law, Cypriots, as well as foreigners can enjoy all rights relating to ownership of their property without any interference either from the State or individuals.

ACQUISITION OF IMMOVABLE PROPERTY:

Cypriots & E.U. citizens living in Cyprus:

Under Cyprus Law, Cypriots or persons of Cypriot origin as well as E.U. citizens who have their permanent residence in Cyprus are allowed to acquire any property without any restrictions.

The residential status is ascertained by the District Offices and is obtained when a person resides in Cyprus for a total period of 185 days per year or more.

Foreigners & other E. U. citizens:

Foreigners and E.U. citizens who are not permanent residents of Cyprus, wishing to purchase immovable property in Cyprus are obliged to adhere to special formalities and are restricted by certain regulations.

Firstly, a restriction as to the type and size of the property is applied and they are given permission to buy only one apartment or one house or a building plot or land, which in the case of E.U. citizens can be unlimited and in the case of all other foreigners up to 4,014 square metres (the equivalent of three donums).

In the case of persons who are living or working in Cyprus for a long period of time a permit to buy a second house may be granted.

After the permission has been obtained and the property registered in the name of the purchaser, there are no other restrictions for the foreign who is the owner of immovable property in Cyprus and he or she may sell or dispose of the property as they wish. The foreigner owner of immovable property can sell it and buy another, as any bona fide repeat purchaser will be granted a subsequent permit.

Furthermore, the legal heir/s of the said owner is not required to obtain a permit from the Council of Ministers in order to transfer the property on to their name.

The restriction applied for E.U. citizens not residing in Cyprus will cease after May, 2009, and all citizens of the E.U. will be treated equally with Cypriot citizens regardless of their residential status.

APPROVAL BY THE COUNCIL OF MINISTERS / PERTINENT AUTHORITY:

According to Cyprus Law, foreigners must obtain the permission of the Council of Ministers prior to the acquisition of real estate property. Recently these powers have been assigned to the Pertinent Authorities of every district, in order for the procedure to become speedier.

A foreigner – the law uses the term alien – is any person who is not a citizen of the Republic, including an alien controlled company. The term does not include foreigners of Cypriot origin, or the non Cypriot spouses of citizens of the republic.

Acquisition of real estate property includes:

- Transfer of title deed.
- Long lease for periods of more than 33 years.
- The acquisition of shares in a company that owns immovable property, if such an acquisition results in the company becoming controlled by foreigners.
- The establishment of a trust or any type of set-up, which is connected with the ownership of real estate, for the benefit of a foreigner, including tax benefits.

Although the proceedings for the obtaining of the permission might need a considerable amount of time to be fulfilled, purchasers are entitled to occupy their properties until then.

Also, any contract for the purchase or lease of property is valid even if the Pertinent Authority rejects the foreigner's request for permit. As such, when purchasing a property, it is advisable for the relevant contract to include provisions for such an event so as to secure a refund of any money paid or any other remedy.

The application to the Pertinent Authority requires information about the personal details and financial standing of the applicant and particulars of the property and its present owner. Also it must be accompanied by a number of legal documents.

As a general rule permission is granted to bona fide applicants provided they have:

- No criminal record in their country or in Cyprus.
- The financial means to support themselves in Cyprus. (An income of CY£12.000 per annum between the couple is considered satisfactory).

As of 1st May, 2004 , citizens of the EU residing in Cyprus or Cyprus based companies, controlled by citizens of a Member State are not considered to be foreigners. As for citizens of the EU not residing in Cyprus, there is a transitional period until May, 2009, after which they will be treated equally with Cypriot citizens regardless of their residential status.

SPECIFIC PERFORMANCE:

One can wonder about the safeguards of a transaction between a seller and a purchaser, especially when the purchaser is not allowed to transfer the acquired property onto his/her name, sometimes for a long period of time after payment of the consideration, as in the case of a foreigner purchaser awaiting for the several formalities to be completed.

According to the provisions of Specific Performance Law, the purchaser of immovable property may secure the transfer of the acquired property on to his/her name by depositing a duly signed and stamped copy of the contract at the Land Registry within two (2) months from the signing of the contract.

By depositing the contract to the Land Registry, the purchaser prevents the owner from transferring the property elsewhere or charging it for as long as the contract is valid and legally effective. Note that no burdens, charges or encumbrances can affect the right of specific performance after the contract has been deposited with the Land Registry.

Depositing a copy of the contract to the land Registry gives the purchaser the right to seek "specific performance" of the terms and conditions of the contract and thus to register the property on to his/her name, even though the owner may not be willing to accommodate such procedures.

FEES AND CHARGES:

Usually the relative fees and charges for the acquisition of Immovable Property in Cyprus are paid by the Purchaser. These include legal fees as well as transfer fees, stamps and other fees imposed by the Cypriot authorities.

Transfer Fees:

When registering the property under his / her name, the purchaser will be liable to pay the following transfer fees, calculated according to the property's market value:

Market Value CY£	Fees Rate
Up to CY£50.000	3 %
From CY£50.000 – CY£100.000	5 %
Over CY£100.000	8 %

Stamp Duty:

The purchaser is also liable for the payment of stamp duty at the rate of 0.15 % of the market value of the property up to CY£100.000 and 0.20 % for over CY£100.000.

The contract should be stamped within a period of thirty (30) days from signing.

Although the absence of the revenue stamp on a contract does not render it void, the stamp must be paid before depositing the contract to the Land Registry for specific Performance purposes (see SPECIFIC PERFORMANCE above).

The stamp duty plus a fine will be payable when the contract is produced to the Land Registry for the transfer of ownership or to any Government department and the court.

CAPITAL GAINS TAX:

Capital gains tax is levied at the rate of 20% on gains realised from the disposal of immovable property or the disposal of shares of companies the assets of which consist mainly on immovable property.

The gain is calculated as the difference between the sales proceeds and the original cost of the property. Interest on payments paid for the acquisition, additions to the property and inflation rate, as published yearly by the Government, are deducted from gains.

Individuals are entitled to the following lifetime allowances on Capital Gains Tax:

- ü The first CY£10.000 of gains arising from the disposal of any property are exempted.
- ü The first CY£15.000 of gains arising from the disposal of agricultural land by farmers are exempted (subject to conditions).
- ü The first CY£50.000 of gains arising from the disposal of a house used by the owner for his / her own habitation are exempted (subject to conditions).

The following allowances are not available separately and every individual is only allowed a maximum lifetime allowance of CY£50.000.

Non residents are only charged when selling property in Cyprus, but they can be totally exempt from Capital Gains Tax if they can prove that the purchase consideration was paid with foreign funds imported between August 1st, 1980, and July 13th, 1990.

The following categories of immovable property disposals are exempted from the Capital Gains Tax:

- i. Transfers by reason of death.
- ii. Gifts between relatives up to third degree of kindred.
- iii. Gifts to limited liability companies when, at the time of transfer and for a period of five years following the transfer, all the shareholders of the company are members of the family of the donor.
- iv. Gifts by family companies to their members, but only in cases where the property transferred was obtained by the company as a gift.
- v. Exchanges of immovable properties.
- vi. Compulsory acquisitions.
- vii. Gifts to charitable institutions or the Republic of Cyprus.

OTHER TAXES

VAT

As of May 1st, 2004, the supply of immovable property is subject to VAT (Value Added Tax), which is calculated at a rate of 15 % of the value of the property.

However, VAT is only levied on property before its first use, as well as on the land on which such property is built.

Also for buyers of a first residence the VAT is levied at a rate of 5 %.

Transitional provisions provide the exemption of buildings for which a valid application for planning permission was submitted before May 1st 2004.

For more information visit the official website of the Ministry of Finance of Cyprus at: <http://www.mof.gov.cy>

Immovable Property (Towns) Tax:

The registered owner of immovable property is also subject to minor taxation under other laws, imposed by municipal or other authorities. These taxes are levied according to the area and the size of the property and cover sewerage, refuse collection, street lights and other similar expenses. The charges range in total from approximately CY£50 to CY£100 per annum.

DOUBLE TAXATION TREATIES:

Cyprus has signed double taxation treaties with a considerably large number of countries and more are under negotiation. These treaties may affect favourably the ownership of immovable property in Cyprus and also groups of people who decide to relocate to Cyprus, such as retired residents, employees and business investors.

Some of the countries with which Cyprus has entered into double taxation treaties are: U.K., Ireland, Greece, U.S.A., Canada, France, Germany, Italy, Russia, Belarus, Romania, China, Austria, Belgium, South Africa, Yugoslavia and many others.

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