

## **Buying Real Estate in Costa Rica**

### **Owning Property in Costa Rica**

Unlike other countries, Costa Rican law makes no substantial differences between its citizens and foreigners regarding the rights of ownership of any kind. Anyone can purchase property in Costa Rica, regardless of whether they are foreigners, residents, or citizens and the law guarantees such property ownership rights. There are however, several different types of property available to buyers and it is important to understand those differences. Restrictions apply to certain types and being aware of and understanding these restrictions and how they apply, is imperative for the prospective buyer.

### **Properties in Los Pelicanos**

#### *Fee Simple (Titled Property)*

The most straight forward form of property ownership in Costa Rica is fee simple (titled) ownership. The conditions for this type of ownership are the same for Costa Rican nationals as they are for foreigners. The concept of fee simple ownership gives the owner of the property the absolute right to materially own the property, use it, enjoy it, sell it, lease it, improve it (i.e. transformation), etc; subject only to conditions outlined in the Costa Rica Laws.

All properties that have an owner, according to law, must be registered in the Public Registry. All the information regarding a titled property including the current owner, the survey plan, the size and boundaries of the land, and any liens against the property can be found in the Public Registry (all information registered in this institution is of public use for owners and buyers safety).

Fee simple also means that if the owner is obstructed from enjoying any of his/her rights to the property, he/she has the right to be made whole, in other words, have the property restored to its original condition. Buyers who purchase fee simple title have the most rights under the law to enjoy and use the property as they see fit.

#### *Property in Condominium*

This kind of property is under a different regulation that offers some advantages, like the possibility of enjoying common areas such as pools, courts or gardens, and some restrictions, ones set by law and others by the Condominium Bylaws.

There is a specific Condominium Law in Costa Rica which, in combination with other legal dispositions, regulates all conditions required. In order to set up a condominium development it is required that Bylaws be written, containing all of the restrictions, limitations and privileges that will be imposed on owners. Condominium's Bylaws are designed to protect the integrity of a development and all of its public space. It is important that you review all of these documents carefully prior to purchasing in a condominium development. Ownership of "Condominium" property is fee simple ownership.

#### *Public Property*

There are some pieces of land that belong to government institutions, municipalities, National Parks and reserves. These are considered public property and are included in different special regulations. With them the rule is they will remain public and they are strongly protected by the Laws of Costa Rica, so they won't be destroyed, polluted or possessed by anyone.

### **The Purchasing Process**

When a potential buyer locates a property of interest, the following steps are taken to acquire the property.

Step 1: Sign a Purchase/Sale Contract with seller

Step 2: Deposit funds into escrow account

Step 3: Title research performed and Title Commitment issued (review if property is free and clear of title defects)

Step 4: Closing-Execution of Transfer Deed, Endorsement of Shares and/or Mortgage

Step 5: Register new owner with Public Registry

Step 6: Receive official Title Insurance Policy

### **Understanding the Terms**

While the purchase process may seem very simple, there are some key concepts which we will define and need to be understood. The following definitions will help in educating you with the most common vocabulary used in real estate transactions in Costa Rica.

Folio Real: This is the identification number for properties in Costa Rica. It is the unique number assigned to each property to identify it and distinguish it from others in the public registry. This number is comprised of three parts. The first number indicates the province, the second group of numbers is the number of the property itself and the last group number indicates how many owners the property has or has had. The property that you are buying **MUST** have this number in order for you to obtain clear title.

Transfer Deed (escritura de traspaso): This is the document that contains all of the stipulations regarding the transfer of real estate. This document must be prepared by an attorney who must also be a Public Notary and the deed must be recorded in his/her Notary Book as well as at the Public Registry of Properties in San José. It is important that the deed will is registered the same day or next day after the closing to insure the government recognizes your purchase immediately, and no other party can own the property before you. This document will be signed in Spanish, and the Notary will translate it to you, guaranteeing a faithful translation of the Deed. The original document, the one the Seller, you and the Notary will sign, will remain in the Notary's Protocol. You will, however, have a legalized copy of this original document.

Power of Attorney: This document authorizes a person to act on behalf of another to perform a specific action such as the purchase of property. This is especially useful for clients that wish to close on their property without actually returning to Costa Rica themselves for the closing.

*Full Power of Attorney:* This Power allows buying and selling any goods, accepting mortgages on properties, acquiring debts, giving any good as warranty, signing checks, and etcetera. It's a Power of Attorney in which the agent can appear before almost any authority on behalf of the principal and act in almost any kind of situation in his name.

*General Power of Attorney:* This Power of Attorney is to be used for administrative purposes. It's the power given usually when you have a business and you need someone to manage that business in your place. It allows hiring help, signing invoices and, if not limited au contraire, performing any activity considered as usual among the business or company.

*Special Power of Attorney:* It allows the agent to perform only a specific act or sequence of acts, each one specifically described in the Power. Any other act that is not enclosed in the Power itself cannot be performed legally.

As a general note to powers of attorney is important to emphasize that when a principal gives the power, he can state any limitations he may deem appropriate, depending on the needs and trust he has on the agent.

Survey Plan (Cadastral Plan): In order to transfer or acquire a property, the respective survey must be recorded at the Public Registry with the municipality authorization. The official drawing of the property is validated through an approval process by the Public Registry of properties as well as by the municipality in which the property is located.

Public Notary: Attorney licensed by law to perform legal acts with public faith. A Public Notary is necessary in order to purchase a property. The Public Notary will be responsible for drafting the transfer deed and making the changes in the Public Registry immediately upon closing the property.

Representatives: If buyer or seller will not attend the closing personally, an individual with power of attorney to represent either or both parties will be required the day of closing. Whenever buyer, seller or both are corporations, the legal representative shall appear to sign the deed and the legal document. A passport or cedula (Costa Rican ID) are required for proof of identity. This document must be executed before a Public Notary.

### **Recording of the transfer deed:**

Upon the signature on the transfer deed, the Public Notary shall take the transfer deed to the Public Registry for its recording. The first phase is where the notary presents the deed to the public registry for its annotation. From this moment the property is protected against any third party interest. After the registry verifies that the deed has been prepared correctly, the second phase of registration begins and the property will be registered in the name of the new owner.

### **Methods of Purchasing**

Acquiring Properties through direct transfer: This is the typical purchase process in which one or more individuals acquire a property in their personal name through the execution of

a transfer deed of purchase executed before a Notary Public and then registered at the Costa Rica Public Registry.

Transfer of Properties through a Corporation: This occurs when a specific property is the only asset being held by a specific corporation. Ownership of that said corporation along with the right of ownership of the property are both transferred together at the closing. This eliminates the cost of changing the ownership of the real state in the public registry, and all the taxes that apply to make that change. However, it is extremely important to confirm that the said corporation does not also have other liabilities attached to it

### **Fees and Expenses Structure:**

Notary Fees: Notaries are required by law to charge 1.5% of the purchase price as their legal fees.

Legal Stamps: 1% of the contract price

Title Insurance: Title Insurance offered by a Title Insurance Company.

Escrow Agent Fees: 0.08% minimum \$300.

### **Protecting your real estate purchase**

One of the greatest concerns in purchasing real estate in a foreign country is ensuring that the transaction will be executed legally and that the system will insure a lifetime of enjoyment of the property. The Costa Rica legal system, when properly followed, provides ample protection to purchasers; but if the transaction is not executed properly, loss can and does occur. To guarantee the security of a sound real estate purchase there are several tools that can be utilized in any real estate transaction.

#### **1) Title check for third party rights**

The title must be checked for any liens or encumbrances, of which the Public Registry keeps scores. It is very important to carry out an effective research of the property, to avoid subsequent problems.

#### **2) Notary Service:**

A notary must execute the transfer deed. His/her job is to ensure that the will of the parties is met while ensuring that the process is done in accordance with the requirements of local legislation. Moreover, it is his/her duty to register the public deed at the Public Registry and ensure that said registration is completed at the earliest time possible.

#### **3) Title Insurance:**

Obtain a title insurance policy by which a third party (Title Insurance Company) commits to indemnify losses due to any legal situation that could affect the property and that are not excepted or excluded from coverage of the Title Insurance Policy. The Title Insurance Policy is a legal document that grants the buyer the security and peace of mind that the buyer has clear title to the property purchased and that the purchase is protected in the event of a title defect. The process of issuing a Title Insurance Policy includes the issuance of the Title Commitment that allows the buyer to examine the legal status of the property and

provide the buyer with a tool to evaluate whether the property has any legal encumbrances that would affect its intended use and marketability. The final Title Insurance Policy is issued after the closing and is based on the Title Commitment. Title Insurance is a relatively new concept in Costa Rica, but it has already proven to add to initial real estate purchases and re-sales and has encouraged transparency and increased liquidity in the real estate process.

### **Conclusion**

The real estate buying process in Costa Rica need not be intimidating or confusing. By understanding the steps in the process and the pitfalls to avoid, a buyer can confidently purchase and enjoy property. Finding the right real estate agent and legal counsel is as important as choosing the land you want to invest in. Both will serve as your guide through the process and give you the support you need to have a positive real estate transaction in Costa Rica.

### **Residency**

There are several types of residency in Costa Rica:

#### *Permanent resident:*

The most common type of applications and their most significant factor for determining qualification are:

- *Retiree ("Pensionado")*  
Must show proof of monthly income from a qualified pension plan or social security benefits of at least US\$600.
- *Legal resident ("Rentista")*  
Must show proof of at least US\$1,000 monthly income from interest or dividends and that its payment to you is guaranteed for the next 60 months (5 years).
- *Investor (Inversionista)*  
Requires investment of US\$200,000, you can apply with lesser amounts if investing in certain "key" industries including tourism, which requires only US\$50,000.
- *Relationship with a Costa Rican Citizen.*  
Must prove relationship, either by marriage or blood to a Costa Rican citizen.

#### *Temporary resident:*

If you are a citizen of the US, Canada, or Western Europe and you entered Costa Rica without any visa, you were given a permit to stay in the country for ninety days as a tourist. In this time you're not allowed to work and obviously you don't want to stay longer to avoid any immigration problems. Once you have left Costa Rica within the ninety days period, you can reenter the country again with a new ninety-day-permit, if at least seventy-two hours have passed since your departure.

However, if you're interested in working or moving permanently, you should start the paperwork required for obtaining the status of resident as soon as possible.

As it was said, there are several categories of residents in Costa Rica: investor, resident by bond with Costa Rican (person with Costa Rican children, spouse, parents or brothers), resident as a technician of a recognized company or a non-recognized company, retirees, political refugees, and resident as children of a current resident.

For every category of resident the requirements are different, but there are some general ones that every applicant has to have:

- *Birth Certificate*: Original document with a certified Official Translation to Spanish.
- *Marital Status Certificate*: Original document with a certified Official Translation to Spanish.
- *Criminal Record*: It's a certificate issued by the Police Department of the applicant's town of current residency. It has to have no more than three months since the day of issuance by the time you present it to the Costa Rican Consulate or Immigration Authorities and has to be accompanied by a certified Official Translation to Spanish.

These three documents and any other document required by the Authorities that is originally issued in a country other than Costa Rica, must be legalized by the Costa Rican Consulate with jurisdiction over the place of issuance of the document. Each Consulate, depending on the country and jurisdiction, has a different procedure of legalization. Besides those documents, every resident application must be presented along with:

- A formal letter requesting the residency, stating the reasons and the category in which the residency is being requested.
- Special Power of Attorney to a representative in Costa Rica.
- Four passport sized pictures, facing front.
- A copy of all the passport's pages, duly certified by Costa Rican Notary Public.
- A fax number in Costa Rica to notify you of any resolution.
- Fingerprints taken at the Costa Rican Police Archive.

All categories of residency application must be presented to the Costa Rican Consulate with jurisdiction over the place of current residence of the applicant, except when the category of residency is either bond with Costa Rican, children of a current resident or political asylee, in which cases the application has to be presented before the Immigration Authorities in San Jose.

### **Customs**

Upon your arrival to Costa Rica, you will have to solicit a Temporary Permit for your boat or similar ship, which is known as "*Certificado de Importación Temporal*". This permit, issued by the Ministry of Finance and Customs of Costa Rica, has a validity of three

months, and it can be renewed (before the first three months have expired without exception) for three more months for one time. After these 6 months have passed, the boat must leave the country, but it will be possible for the boat to return to Costa Rica and apply for a new Temporary Permit, repeating the previously mentioned process.

You must take in consideration that the the permit can only be renewed by the person under whose name the boat was originally registered. It is not possible to designate an agent or a legal representative for the purposes of renewal on your behalf, since this is a personal request.

If what you desire is to remain in Costa Rica permantly you will have to pay the taxes of customs for the boat, and duly register the boat in the National Public Registry. Once registered, the boat will be acquiring the Costa Rican flag, meaning it will be nationalized as Costa Rican (to obtain the nationalization of the boat it will be imperative to unregistered the boat from the country of its origin).

Finally, it will be necessary to acquire a Certificate of Navigation from “*Ministerio de Obras y Transporte*” (*MOPT*), that shall be renewed anually (the non Costa Rican – flagged boats don’t have to go through this process, since the Certification of Navegation must have been given by the authorities of the country of origin). The requirements to obtain such certification vary depending on the conditions of navegation desired.

The M.O.P.T. generally requires the following documentation:

- Customs temporary permit (original).
- Certificate of Documentation/Registration of the boat.
- Affidavit made before a Costa Rican Notary Public, in which the owner of the boat states that the boat does not have a lien or claim against it in the country in which it is registered.
- Power of attorney authorizing the person that you designate to take care of this paperwork on your behalf.
- If the owner of the boat is a company, the M.O.P.T. requires a notarized certificate that proves that the representative of the boat is a legal representative of the company and has sufficient authority to act on behalf of the company.
- A Certificate of Incorporation of the company will also be requested by the M.O.P.T.

### **Fishing license**

In order to sport fishing in Costa Rican waters, it is imperative to obtain a fishing license for all the boats, national and international, as well as a fishing membership card from INCOPECA (the Fishing Commission) for each person on your boat who intends to fish, in accordance to the actual environmental laws. Your captain and crew must each have an individual license as well. This type of license costs \$24.00. The person requesting such a license must present their passport at the time of purchase.

Take notice that a non-Costa Rican flagged vessel is prohibited from fishing for commercial purposes.

The documentation required by INCOPECA is as follows:

- Customs temporary permit (original and copy).

- Certificate of Documentation/Registration of the boat (original and copy).
- If the owner of the boat is a corporation, a notarized document stating that the legal representative of the boat is the person whose name appears on the temporary permit.
- Costa Rican ID or similar (according to the migratory status) or Passport (original and copy).

The originals are only presented to INCOPESCA so that they may verify their authenticity and are returned to the boater at the time of presentation.

A fishing license is only issued to a boat for the term of the temporary permit; in other words, three months. If a temporary permit is renewed, the boat's fishing license can also be renewed. If the boat is national, you may apply for a **one-year fishing license** for your boat, renewable each year.

Fishing licenses are priced in accordance with the length of the boat:

A.	Up to 12 meters:	\$200.00
B.	12.01 meters to 15 meters:	\$300.00
C.	15.01 meters to 25 meters:	\$400.00
D.	25.01 meters and up:	\$500.00