



# RAYMUNDO & HOPMAN ABOGADOS

**Independent  
Solicitors  
& Barristers**

**Newsletter  
February 2016**

**“Sometimes the questions are complicated and the answers are simple.”** Dr. Seuss

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## WHAT'S NEW

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**Time limits to bring personal actions to Court have been shortened, be careful.**

**By Roberto Fernández – Lawyer**



The new regulation of the Spanish civil Act and the new law 42/2015, in particular the amendment of our section number 1964, have considerably shortened the time limits for civil lawsuits, something to consider, especially if you need to bring actions in court for anything you may believe is owed to you or *for any other different matter*.

The deadline until recently, and if no different law was providing otherwise, was fifteen years to claim in a civil court, but since January 1, 2016, this period has been reduced to only five years, so, if someone owes you money from 2008 then, with the previous act, you were having until 2023 to sue him, now, you would be able to sue them only until the 1<sup>st</sup> of January 2021.

This new time limit also applies to any other previous ongoing action, by example, if someone is having a pending decision from January 2009 that in theory should last until 2024 (as a demolition order) will now be enforceable only until January 2021 when *thereafter it* will definitively have expired.

Therefore, any legal issue happening after that date (January 1, 2016 ), have a five year time limit for Court action, and those possible actions before January 16<sup>th</sup> will no longer be enforceable from 1<sup>st</sup> January 2021.

So please, be careful with these new Court action deadlines, because although they are right, if you take so long preparing your case then time may run out and you can loose your opportunity to sue. Anyway, if you have any doubt as to any particular time limit, do not hesitate to contact us ([info@rhv-lawfirm.com](mailto:info@rhv-lawfirm.com)), and we will be delighted to help you in order to avoid unpleasant surprises to you.

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## THIS MONTH'S ADVICE

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### **Title Deeds in Order.**

**By Maria Navarro - Lawyer**



Last month, I was advising you to update your SUMA, as mentioned, the authorities are investigating 181 cities in the Valencia Region in order to punish with fines to those owners that are not having their SUMA records updated.

As important as to update SUMA is to update your TITLE DEEDS because a copy should be lodged with the SUMA application. This will save lots of time and money to you in the future.

Please, check your deeds and if you have any new item (barbecue, sheds, garage, pool, etc) not included in your deeds then contact us and we will inform you about the Deeds Update process and if convenient, we will be pleased to help you.

Email: [info@rhv-lawfirm.com](mailto:info@rhv-lawfirm.com), or, [maria@rhv-lawfirm.com](mailto:maria@rhv-lawfirm.com).

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# INHERITANCE (CIVIL LAW)

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## EXPATS WILLS, new regulations.

By Ignacio Ganga - Lawyer



European Union New Regulations about Inheritance, in force since August 2015, are meant to “organize” the Inheritance regulations in all EU countries in order to avoid the previous confusions when a foreigner, resident in one of our countries but born in another, as a UK citizen resident in Spain can be, dies with no Will, or without a proper Will in the country of residence.

In accordance to the new Law, Inheritance of your country of residence assets (in this case, your Spanish assets) can be ruled with your motherland Inheritance rules, however, it can be also ruled with the country of residence regulation; you have to decide and declare it when making your Will.

But this decision has to be clear and with no room for any ambiguity because in case of any ambiguity regarding the wording of the Will then and from the EU new regulations, the Country of Residence Law will apply.

And surely, you will not want the Spanish Inheritance rules of compulsory heirs to apply if you are an UK national living in Spain

In Spain, almost all the marriages share the ownership of the estate they have in common. Private estate, i.e., estate that has been inherited or owned before the marriage, stays in the private ownership of the spouse that has received it/owned it, but, everything bought or got during the marriage will be shared, half and half, by each spouse.

If someone dies with no Will in Spain (or if the Will is not properly done and Spanish Law applies) then, ownership of all his estate (100% of his private estate and 50% of the marriage estate) will be transferred to his children, and if no children will go to his parents, or sisters and brothers....The other spouse will only get the life use of the other spouse estate but will not get the ownership at all.

But following the UK example, the rule that applies is the Free Will or Free Disposition of estate. The UK Law allows a wife to leave her Spanish estate to her husband, Spanish Law as you can see does not.

Therefore, if you want your motherland to rule your inheritance in Spain please, get sure that your Spanish Will has been properly done.

In case you have any doubts about the text of your Wills please, send it to us and we will inform you whether it needs to be remade or not free of costs and with no further obligation.

Send your Wills to:

[info@rhv-lawfirm.com](mailto:info@rhv-lawfirm.com)

or

[iganga@rhv-lawfirm.com](mailto:iganga@rhv-lawfirm.com)

## How The New Valencia Land Law (Lotup) Regulations Affect Real Estate Owners.

By Connie Raymundo – Lawyer & Barrister.



(Summarised article, original was published in the Costa Blanca News Autumn 2015 Supplement)

The new Valencia Land Law (LOTUP) regulations came in force on 20<sup>th</sup> August 2014, and amalgamated all the old laws relating to land development resulting in thousands of regulation articles being condensed into less than 300. LOTUP is now ordered in three different books; Planning, Development Management and Development Discipline, and these directly affect all land and property owners.

In the Planning book, LOTUP merges the Environment and Development procedures but gives higher importance to the environmental elements which are now top priority, and all development plans need to include landscape integration reports. Planning, included in the first book, may affect the legality and / or configuration of certain properties so it is essential to visit the local Town Hall from time to time to see if any new development plans are being proposed.

The second book, Development Management, includes important regulations for owners of property on agricultural land. Where a property has been built illegally on such land before the law came into force, it offers the possibility of legalising the situation by means of a special initiative called *Environment Impact Reduction*.

The third book, Development Discipline, is the most controversial and includes the measures that can be taken against illegal building. With the previous Land Law, authorities were able to instigate legal proceedings (i.e. to demand legalisation or if not possible, to order demolition) only within a period of four years after completion of the building work. Now, the LOTUP expands the previous four year term to **15 years**. The authorities now have a period of fifteen years during which they can take action against illegal building works, and eventually if legalisation is not possible, to order their demolition.

However, the four year limit still applies to penalty fine proceedings; in other words, whilst new illegal buildings can potentially be demolished for 15 years, penalty fines can only be levied for 4 years.

This third book also includes the regulations covering building licences – one change is that minor building work such as cable installations or maintenance works will no longer need this licence so long as they do not involve enlargement of the property. The licence will be substituted by a *responsibility statement* at the local Town Hall and an inspection by the authorities.

In any case, before buying real estate or doing any building works, potential purchasers or home owners must visit the local Town Hall in order to ensure that the LOTUP regulations are scrupulously observed. Due to their complexity it would be very easy for a lay person to misinterpret them, so it essential that anyone contemplating business involving property seek guidance from a legal advisor experienced in Land Law – the penalties for non-compliance are strict and severe.

We, as land laws experts, can help you, in case of any doubt or if you are buying or selling a house please, do not hesitate to contact us ([info@rhv-lawfirm.com](mailto:info@rhv-lawfirm.com)).

# Spanish Tax Compliant Wrappers – Time to relax in 2016.

*By David Diggle – Financial Adviser*



In July 2014 the OECD developed the Common Reporting Standard (CRS) which required European financial institutions to share information between Tax offices about their clients. This means you and your bank accounts and investments.

What can you do?

There is an answer: Use the legal, tax efficient structures that have been designed to comply with the latest pan european requirements including Spanish law ensuring a good night's sleep. None of us Brits and Irish are happy about the erosion of our freedoms but it is something we have to get used to, both in the UK and here in Spain.

If you are British or Irish, are single or a married couple, tax resident in Spain, and have children (of any age) resident in the UK and have a risk profile of "Cautious" or "Balanced" then our most appropriate investments are "wrapped" by vehicles that are tax efficient, legal, contain automatic tax reporting to the Spanish authorities and are transferable easily if you return to the UK or transferable to your heirs when you die. These are tailor-made for the Expats and feature huge investment diversification and economies of scale to keep internal costs at a minimum.

There are many product options including one which smoothes out volatility that is suitable for a cautious or balanced investor requiring growth or income. There are other products that allow more flexibility with investment choice and larger withdrawals. Bank accounts that are 100% capital guaranteed with instant access (account opening fees may apply).



In addition to the above there are products available that can mitigate inheritance tax in the UK , products that can limit the reporting requirements for assets outside Spain. There are also on offer Discretionary Managed portfolios that concentrate on wealth preservation above anything else.

### **So far, it seems easy enough....**

But there is much more to the story: What about taxation? How do I report any tax and on what basis? What will happen if I die – will it go straight to my kids or be subject to the many hurdles in Spain and the UK? What if I return to the UK or elsewhere in the world?

Blacktower Financial Management Group with its 30 years of experience, has been there to advise its clients through the ups and down of life so you know you will be in safe hands.

We are here to give you impartial, independent investment and financial advice (minimum investment just £20,000 / €25,000). Call me direct on 615 607 278 or email [dave.diggle@blacktowerfm.com](mailto:dave.diggle@blacktowerfm.com)



Dave Diggle C.A.T., DipFA, (based in Costa Blanca South but covering all areas, Main office: Edificio Palau III, local 7, Javea 03730, Alicante, Spain)

*The above information was correct at the time of preparation and does not constitute investment advice and you should seek advice from a professional adviser before embarking on any financial planning activity. The value of investments can rise and fall and Capital may be at risk.*

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**On a personal note**, this is my opportunity to thank Connie and Ignacio.

My Wife and I, unfortunately ended up with an illegal house and an enormous fine. After engaging 5 solicitors who either did not avert the problem from day 1 or were insufficiently knowledgeable or skilled to fix the problem, we stumbled across Connie, just as we had only 10 days to re-appeal the fine and head back to the UK for an unknown period due to a life threatening family illness. This was in 2008 and it was not our finest year. Connie suggested she could help us but she knew we were packing to head home, so she kindly said to send her money when we had time however, we were not to worry about it. Don't forget, she needed to get into action straight away! That act of kindness and the fact that she offered a glimmer of hope had my wife in tears in Connie's office. Roll forward 7 and a half years and the enormous fine was quashed by the Elche courts. Roll forward another 6 months (this week), and the Elche Courts have ruled that the Town Hall should issue us with a retrospective Building licence (and hopefully) a habitation Licence. There were a lot of issues and blatant lies in between the years that we all had to deal with but together with Google Earth Photographs, Connie and Ignacio came through for us with their tenacity, skill and careful consideration. Of course I need to have those "bits of paper" in my hand to fully celebrate but the weight that has been lifted from our shoulders is unquantifiable. Only those people with similar problems will understand as they sure don't back at home ! "What do you mean, your house is illegal?"

**So to Connie and Ignacio, on behalf of my wife, Michelle, and I, we would like to thank you both very much. We appreciate you both more than you will ever know.**

**Dave Diggle, Crevillent**

## 720 Foreign Assets Declaration form.

By **Connie Raymundo – Lawyer & Barrister.**



The Tax form 720 is an informative tax model and its main purpose is to avoid the money laundering.

By the means of this form that has to be brought from the 1<sup>st</sup> of January to the 31<sup>st</sup> of March, residents in Spain must inform about their accounts, estate and investments abroad when valued over 50.000 euro.

Once lodged for the first time, the person subject to this form presentation will only have to bring it again if the value of any of the above mentioned three groups (accounts, estate or investments) have an increase of 20.000 euro or more.

The above seems right, however, what makes this model so controversial is the lack of proportion between its purpose and the fines, huge fines that can be imposed when someone forgets to lodge it or it is not lodged in time.

**Fines;** If you do not lodge the 720 tax model, the tax authorities will fine you with 5000 euro per block or missing data (remember there are three blocks) with a minimum fine of 10.000 euro. Furthermore, the value of your investments and assets abroad, if not informed by the means of the 720 tax model, will be considered as an unjustified benefit and will be punished with a fine of 150% of the amount that you are supposed to pay for this unjustified benefit in your yearly tax return.

If you lodge the 720 tax model beyond the expiry date (after 31<sup>st</sup> of March) then, you will be punished with a fine of a 100 euro per missing data or detail, by

example, if you have your money invested in 10 different products then they will be punishing you with 1000 euro, with a minimum fine of 1.500 euro.

The EUROPEAN COMISION has opened a proceeding against Spain for the lack of proportion of these fines- the process is in its very early stage so, at least this year, the obligation to inform by the means of the 720 tax model remains.

Our tax department will be pleased to study your case for free and to help you further if necessary.

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## SAVE MONEY

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**We'd like to help you get more from your overseas money transfers.**



**By Billie Knight -Currencies Direct Business Executive**

Since 1996 we have helped more then 150,000 clients and each year we process £2 billion in currency payments. By using us for your exchange needs you can achieve peace of mind knowing that your money is safe and secured - as we are fully regulated and authorized by the financial conduct authority.

With our experience and expertise this means we can offer you; bank beating exchange rates saving you upto 5% on your overseas transfers, no transfer fees, friendly currency experts on hand, 24/7 online service and tailored products to suit your needs. Feel free to contact our office on 965 994 830 - or visit us in la Zenia or la marina.

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Let's talk currency

## Timo de la Estampita strikes again.

By Ignacio Ganga - Lawyer

A man residing in Orihuela has been misled by some bogus buyers in Toulouse (France) when he was about to sell a property.

The victim and his partner travelled to France with 250.000 euros in large denominations to be handed to some, Italian accent sounding buyers. The sale deal did include handing over 250.000 euros in small notes to the sellers by the bogus buyers, which would return the amount plus 25.000 euros more (all in 500 euros notes), as commission, to complete this *money laundering*".



The victim did confirm this version to the Policia Nacional and related all the details about the meeting in a Toulouse Hotel, including a wine pack received from the bogus buyers as a gift . He also informed, he, in fact, did have the 275.000 euros in his hands but the buyers finally changed the 500 *euro large notes* for fake ones to wave goodbye immediately and disappeared.

This *timo de la estampita*" is a fraud well known in Spain. It is an offence, punished by our Código Penal in articles 248 -251. These articles have been recently revised with the new Código Penal amendment and for this particular case, with a 250.000 euro fraud, the penalty would be considered as *an aggravated offence* which means a higher penalty : 4 up to 8 years prison penalty.

This distinction is going beyond former considerations in the Código Penal, when the standard penalty was 1-6 years imprisonment for a very wide range of money sum frauds (from 50.000 euros up to millions of euros, the penalty was the same).

### EXTRA TAX, “complementary settlement check values.”

By Oana Dragoi - Lawyer



I want to buy a flat, business premises or garage, and the price is below the value, which the Region Tax Authorities in which it is located give to it. How do I have to notarize it? For the money I actually paid or for the amount the Region authorities say? If notarized or declared for what I am really paying, may the Hacienda (tax authorities) then claim from me to pay more for the property transfer tax?

These and similar questions are to be considered more and more often by those people who want to buy a property today, as is increasingly common, too, that the ministries of finance of the different regions insist the buyer to pay an extra tax to what they have already paid during the purchase settlement, which is called "complementary settlement check values."

This is because, even though the deed is recorded for the actual price paid for purchase of the housing, the value by the administration of the property is far superior, due to not having revised nor updated downward fluctuations in real estate prices and real market values. That is, there is a clear mismatch between the variable economic reality and static property assessment made by the administration in the best years of real estate boom.

So what happens when the administration says the value is higher than what was actually paid as the price? Two things can be done at this time:

a) Assume the additional assessment declared and pay the amount requested counseling Hacienda of the relevant Region, with interest on late payments.

b) Proceed to appeal the settlement by the statements above, by challenging the administration on values that are not adapted to reality, and this is one reason more weight, among many others, to be argued.

Since the late 80s, early 90s the jurisprudence of both the Supreme Court and the courts of administrative litigation supports the requests of taxpayers in this regard.

Remember that for this you must use all the evidence you have in your favor: the condition of the house, construction works in the house, purchase contract, etc.

If this has happened to you and you do not agree with the assessment made by the Administration, contact us, we can help you.

Email: [info@rhv-lawfirm.com](mailto:info@rhv-lawfirm.com) or [oana@rhv-lawfirm.com](mailto:oana@rhv-lawfirm.com).

## Two Important Things That Vendors Usually Ignore when Selling a House.

By Angie Castello – Estate Agent



Selling a house is as difficult as buying it, even when it might look as if it is simpler.

The vendor has to be especially cautious with the legal and building condition of the house before the contracts are drawn up.

From our Estate Agency, we always recommend to include in the first contract, the private purchase/sale contract, all possible conditions that might be an excuse for cancellation in the future;

Regarding any possible building condition, by example, if there is a problem with any house element, or if anything needs repairing or replacement (especially important things as a crack in a wall or the replacement of a Septic Tank) or if the house needs painting then, this should be very clearly specified in the contract.

About any possible legal condition, by example, if any house item is not in the title deeds (barbecue, sheds, etc), or if the house has less/more metres than the ones specified in the title deeds, if any authorities file is pending or similar, it should be also clearly specified in the contract.

Why is the above so important? This is important because if you do not clearly inform about these problems then, the purchaser will be able to ask for cancellation of contracts in the future. If they win the case, you will have to return the money received for the sale plus interests and legal costs.



Also, we do highly recommend that potential purchasers are visiting the house before the contracts are signed. This is essential as if they do visit it, they will not be able to complain for any visible defect of the house.

Of course, the above mentioned visit should be mentioned in the private contract as well.

The Lawyers promoting this newsletter have uploaded two guides in their website with further information. You can visit it as detailed below:-

**BUY SAFE** or pasting the link in your browser:

<http://www.rhv-lawfirm.com/CONVEYANCING-BUYING.html>

**SELL SAFE** or pasting the link in your browser:

<http://www.rhv-lawfirm.com/CONVEYANCING-SELLING.html>

Finally, **we need houses for sale!** Please, if you want to sell your house then, we will be delighted to help; you can contact us [info@seagullvillas.com](mailto:info@seagullvillas.com) for more information about the free services we do provide to vendors and/or to arrange a visit to your house for processing.

You can also visit our website: <http://seagullvillas.com/>

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# FREE SEMINARS

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**La Marina, April 2016.**

**Free Breakfast and Investments & Law Seminar.**

The 25th of February, four different Companies (Blacktower, Seagull Villas, Currencies Direct and us) offered a free Investments and Law Seminar in the fantastic meetings room of La Mayordomía de San Blas, Sax.



We are already preparing our **next Seminar** that will be offered in **LA MARINA in April 2016**; location and date to be confirmed.

We will speak about Investments Law, Property & Conveyance issues, Expats Wills, Inheritance, Solid Investment Choices, How to save money with your currency exchange and the many Spanish new regulations recently passed in order to provide our attendants with a complete legal update.



As you know, **OUR ATTENDANTS OPINION MATTERS TO US**. After Seminar we will collect from attendants a short experience test. An innocent hand will pick few of these tests and winners will receive special gifts from the participant Companies.

We will send you a note with location, date, time and programme very soon.

Information about previous Seminars in [www.rhv-lawfirm.com](http://www.rhv-lawfirm.com)

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### Our Staff:



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