



# RAYMUNDO & HOPMAN ABOGADOS

**Independent  
Solicitors  
& Barristers**

**Newsletter  
January 2016**

**"Whatever you are, be a good one." -Abraham Lincoln.**

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## WHAT'S NEW?

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### **New EU Regulations on Criminal Records**

*By Oana Dragoi*



The European Commission has submitted a proposal to ease the exchange of information on criminal convictions not only between Member States of the European Union, as it has been done since ECRIS was created in 2012, but also between third countries. This proposal aims to give judges and prosecutor's efficient tools to fight against international crime and terrorism taking into account the terrorist threaten that Europe is facing after the attacks in France.

The proposal will be presented to the Justice and Home Affairs Council to be discussed and, once the legislative procedure is finished, the Directive will come into force a year after its publication on the Official Gazette. The Commission is dealing with new and changing threats and considers paramount an efficient exchange of comprehensive information which will guarantee Member States' security, enhance legal cooperation, reduce costs, improve efficiency and the identification and exchange of digital fingerprints.

## New-Build Homes: Defects & Purchaser's Rights.

By *Connie Raymundo*

*(Article published in Costa Blanca News Dec 4<sup>th</sup>, 2015)*



New-build homes appeal to many people for a variety of reasons but houses, even brand new houses, are not always perfect; faults or defects may sometimes appear after the purchase.

The Building Law (LOE) provides three different guarantee periods of 1, 3, or 10 years during which the purchaser will be able to complain and seek redress, depending on the magnitude of the defect:

**Ten years:** this is the guarantee period when the stability or structural integrity of the building itself is in jeopardy. This category includes all defects affecting the main structure and fabric of the house including foundations, supporting walls and beams etc.

**Three years:** this guarantee period applies when, because of faults or defects, the house does not meet habitation requirements with regards to hygiene, health, environmental protection, noise or thermal isolation energy saving and so on.

**One year:** this is the guarantee period for minor items such as cosmetic defects in wall surfaces and painted finishes, marks and scratches on fittings etc.

However, it is essential to realise that different to these guarantee periods is the limited time available to take legal action. House Defects action **expires after two years** from the time when the defects first appeared and/or became known by the purchaser. Under the provisions of this action Builders, any Agents involved, as well as the Architects, can all be sued.

In reality though, two years usually proves to be too short a time to sue and because of this, it has been quite usual for purchasers of new homes to use the Breach of Contract court action against the builder or promoter (this action goes only against those parties whose signatures appear on the contracts) because it's time limit **was** 15 years.

However, the section of the Civil Law that specified this 15 year time limit has recently been changed; the new Law 42/15, approved on 7<sup>th</sup> October, has reduced the time limit from 15 years to only 5 years.

This new rule is clearly a setback for purchasers of new homes as it considerably reduces their options for seeking legal redress through the courts.

Also be aware that this new 5 year deadline for court actions does not only apply to Breach of Contract suits, it also applies to all personal actions; so anyone having a legal problem can no longer afford to "wait around" delay before contacting an independent and specialised lawyer.

The Building Law (LOE) guarantee periods of 1, 3 and 10 years apply only to new-build homes, so we will be looking at the rights of purchasers of previously-owned houses in our next article.

Lawyers at Raymundo & Hopman are specialised in these House Defects and Breach of Contract actions, and will be pleased to study any case and to produce a preliminary legal report about any purchaser's possibilities of success free of charge.

Connie Raymundo – Lawyer and Barrister at Raymundo & Hopman. Reg. nº ICALI 5936.

## Spanish Pension Plans

*By María Navarro*



At the present time, any person wanting to maintain their standard of life when retiring must complement the State Pensions with additional saving financial products. A Pension Plan can be a good idea.

**But, what is a Pension Plan?** It is a type of retirement plan and in Spain, there are two different groups; **Company Pension Plans** wherein an employer makes contributions toward a pool of funds set aside for an employee's future benefit. The pool of funds is then invested on the employee's behalf, allowing the employee to receive benefits upon retirement, and, **Private Pension Plans** that can be contracted individually by anyone and out of any Company control wherein the person that has contracted it makes the contributions "upon" towards "his" their retirement benefit.

There are Pension Plans for each type of investor. The differences lie on the way the Plan invests. There are fixed rate Plans (they invest in national debt or companies), Variable rate Plans (they invest in funds, stocks, actions, etc), Combined Plans (they combine both of the previous Plans criteria) and Guaranteed Plans (they safeguard the invested capital).

We can contract one or several Pension Plans. However, it is essential that the set, or "portfolio", in which the Pension Plan is investing, matches with our customers risk profile of investment.

The risk profile of an investor is defined by the investors attitude towards risk, in short words, the investors risk tolerance. Thus, the categories of investors are Conservative, Balanced and Enterprising.

The money invested in the Pension Plan (called *consolidated rights*) can be surrendered at retirement, or before, in case of permanent disability. Also and as provided in the Spanish Laws, the Pension Plan money can be surrendered before retirement when the beneficiary has a long term unemployment situation, suffers a severe disease or if evicted from his first residence or living home.

Also and from January the 1st of 2015, the Pension Plan money can be surrendered after ten years from the first payment contribution.

What makes the Pension Plan so attractive are its tax benefits; the Pension Plan is the only financial product that reduces the taxable income in the yearly tax return. However, the taxable income reduction is limited to 8.000 euro Pension Plan payment contribution per year.

Spanish Banks have different and many Pension Plan offers but to know if a Pension Plan suits your needs, or, which Plan better fits with your tolerance to risk profile, it is highly recommended to seek advice from your Financial and legal adviser.

Our Lawyers are specialised in these and other investment related matters; contact us for further information, we will be pleased to help.

Maria Navarro,

Lawyer and Barrister at Raymundo & Hopman Abogados.

## Murder or Homicide?

*By Ignacio Ganga*



A Man was recently stabbed to death in Villamartin, Orihuela Costa. A British man, believed to be in his 20's, was reportedly stabbed to death with a broken bottle at a sports bar in Villamartin, Orihuela Costa.

The incident occurred in the early hours of last Saturday, when a man was attacked and stabbed in the neck, throat, face and thorax. Three British citizens have been arrested in connection with the crime; two men aged 26 and 43, and a woman aged 39.

The arrested, if enough evidence of their participation in the tragic incident is found, will be now prosecuted and depending on the development of the case (facts, evidence, particular circumstances of the case, etc) the alleged criminals could be charged with Homicide or Murder.

Homicide is a crime subject to 10-15 years imprisonment. However, Murder, as an aggravated crime, has a related penalty of 15 to 20 years imprisonment.

What turns a Homicide into Murder are the aggravating circumstances; 1. To use means, tools or any other way to ensure the result (death), 2. To kill for a price or reward, and 3. Murder with malice or cruelty. If two of the three aggravating circumstances before mentioned are considered then, the alleged criminal could be punished with 20 to 25 years imprisonment.

Ignacio Ganga, Lawyer and Barrister at Raymundo & Hopman Abogados.

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# CIVIL LITIGATION

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## Banks found responsible for the purchasers off-plan money loss.

*By Roberto Sánchez*



Recently, the Courts of Alicante have produced a sentence forcing a Bank to give back the deposits that clients made to promoters to buy houses off-plan and that sadly, were never built. This is a topic of great interest for the British community as in many cases the buyers

were citizens of the islands and were left defenceless when losing their savings.

It seems now to be some light at the end of the tunnel since the local courts are beginning to follow the line that the Supreme Court initiated, punishing banks where the money was deposited to return these payments that buyers gave to promoters as they should have been safeguarding it, as provided in the old Law passed on 1968.

This is an important step forward as until now, although many Petitions were brought to Court and won against promoters or builders who were leaving purchasers with no house and no money and as usual putting the blame on the estate market crisis, while they claim to be penniless.

Although it would be necessary to study each case in particular, this can be a very interesting and justice restoring route for those that were left defenceless and abandoned, also, a realistic opportunity to get their money back.

**Roberto Sanchez, Civil and Tax Lawyer at Raymundo & Hopman Abogados.**

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# SAVE MONEY!

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## How to save money with your currency exchange and money transfers.

*By Billie Knight*



Every time you transfer money overseas with your bank, you will lose money in hidden fees and poor exchange rates.

With Currencies Direct, we can save you up to 5% on your overseas money transfers\*. Whether it's a one-off transfer, buying/ selling property or moving your pension, we can help your money go further.

As experts in our field, having been present in Spain since 1999, we provide an efficient and economical solution – meaning we save you lots of money and hassle.

On top of bank beating rates and no charges, we can offer you peace of mind as we are fully regulated and authorised by the Financial Conduct Authority under the Payment Services Regulations 2009, therefore your funds are kept secure and protected.

For more information with no obligation how you can start saving now, please feel free to contact us on +34-965994830.



Let's talk currency

***Billie Knight***  
***Business Development Executive***

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## THIS MONTH ADVICE

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### Catastro (SUMA) Revisions. Update your SUMA!

Four Vega Baja Towns (Jacarilla, San Miguel de Salinas, Torrevieja and Redován), have been recently revised for the Catastro update. Over 2000 infractions were found and denounced in the mentioned Towns due to lack of IBI payment. This revision not only affects houses, it also involves any other buildings such as pools, barbecues, etc. Aerial photographs are the tools used to compare old and brand new constructions.

It is therefore strongly advisable to (get) ensure that your house fits with Catastro and Land Registry descriptions in order to avoid fines and expensive and time-consuming problems in the near future. Our Law Firm has a large experience in this field due to our work with the Catral, Orihuela and other Towns legalisation cases and we would be more than happy to resolve any question you may have in this regard.

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## FREE LAW SEMINARS

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### SAX – Thursday 25<sup>th</sup> of February.

*Mayordomía de San Blas – 11:00 a.m.*



We would like to invite you to our next **Free Breakfast and Law Seminar** that will be offered in SAX, a beautiful inland Town near Castalla and Salinas.

We will be speaking about Investors EU protection, Solid Investment Choices, Currency Exchange; How to Save Money, Property, Inheritance and Taxes.

To reserve your place and to receive your programme please, email us to [info@rhv-lawfirm.com](mailto:info@rhv-lawfirm.com). We are looking forward to seeing you!

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# OUR FIRM

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We are a Multidisciplinary and Multilingual International and Independent Lawyers and Barristers Firm based in Alicante Town's core and with collaborators all around Spain, UK, France, Netherlands, Ukraine, Russia and USA.



## Our Staff:



Lawyers, Barristers, Tax Advisors, Economists, Architects, Financial Advisors, Medical Experts, Translators and Estate Experts.

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