

# Panama Information

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## Purchasing Property

Useful Tips on Buying Property in Panama

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**INTRODUCTION AND SUMMARY.** The following is general information on purchasing real estate in Panama. It is not to be construed as legal advice. The different categories of land make it imperative to engage professionals for more detailed information. Real estate laws on the mainland can be quite different than those on islands, coastal areas, and areas near national borders.

Before handing over any money, make sure you consult with a professional and do a proper due diligence investigation over the property to ensure you aren't buying a big problem! It is important to understand the rules and process your property transaction correctly.

Panama has three different types of property;

### Titled Property

Titled property is not unlike "fee-simple" titles in the USA. The Panamanian Public Registry has jurisdiction over the registration of titled properties throughout the country. Titled property is verifiable through the Public Registry system and is guaranteed by the constitution of the Republic of Panama. Titled property can also be mortgaged. The bank will register a lien against the title as collateral on the loan. Titled properties are subject to annual property taxes when the registered value is over US\$30,000 unless the buyer has obtained an exemption for the construction of a new dwelling. This is a pro-rated tax exoneration based on the value of the dwelling. Buying titled property normally requires the following procedure:

- 1. Promise to Purchase Contract:** A small down payment is made at the signing of the promise to purchase contract. The down payment secures the property and establishes time for the title search and to coordinate payment arrangements for the closing. Registering this contract at the Public Registry ensures the property cannot be sold to another party during the escrow period.
- 2. Title Search:** A proper title search includes: a) verification that the seller in fact has title to the property and it is free and clear of encumbrances, liens, or other issues that could affect the free disposition or transfer of the title; b) a review of the official survey map, and a professional surveyor to physically verify the map points on the property (to avoid future boundary conflicts); c) verification of utility debts (water and sewage d) verification of payment of property taxes and/or of the tax exemption.
- 3. Buy-Sell Contract:** This contract is registered at the Public Registry and the final balance is paid to

the seller, or an escrow agent. Payment is made when the title is transferred to the buyers' name. Payment can be issued by a bank, contingent on receiving from the seller proper title to the property. The buyer can open a bank account (or get a mortgage) and then formally request that the bank issue payment as soon as it is presented with the registered public deed transferring title to the buyer. Real estate agents normally get paid only when the sale closes.

**4. Title Transfer:** The buyer officially owns the property when the title is transferred to the buyers' name. The transfer occurs when the buy-sell contract is signed by each party and registered at the Public Registry. If the title is in the name of a corporation, there is no transfer of title, only a transfer of shares of the corporation. The buyer can keep the same officers in the corporation or appoint new members. Buyers of corporate titled properties through the purchase of the corporation itself, should ensure the annual corporation tax (Tasa Unica) is up to date. A change of corporate officers cannot be officially recorded at the Public Registry if the tasa Unica is in arrears.

### **Possession Rights Property**

Possession Rights Property is not unlike "squatters rights" common in North America many years ago. This property is government owned but is "occupied" or "used" by a Panamanian individual (or Panamanian organization) for some time. Possession rights are generally certified by either municipal mayors, sheriffs, or other government organizations such as the Agricultural Reform Department (Reforma Agraria). Possession rights do not incur property taxes, although registered improvements on possession rights property may incur taxes at a municipal and/or national level. Most Possession Rights properties can become titled through a procedure of purchasing the land from the government, however, the law prohibits titling of possession rights properties in some areas such as certain coastal areas, national parks, or islands. In these cases, as an alternative, the "possessor" of the property can apply for an administrative concession over the land to guarantee the pacific use of it.

Acquiring possession rights over a property normally requires the following procedure:

**1. Promise to Purchase Contract:** A small down payment is made at the signing of the promise to purchase contract to secure the property, establish time for the title search and to coordinate payment arrangements for the closing. Contracts related to the purchase of Rights of Possession cannot be registered at the Public Registry, but can be authenticated by a public notary.

**2. Due Diligence:** The due diligence procedures on possession rights property is more complex since there is no central database of information on possession rights properties. Buyers of possession rights should take extra care in their purchase. The following due diligence investigation can be done on possession rights property:

a. **Verification of Certification of Rights of Possession:** A valid Certification of Rights of Possession is issued by a competent government authority, and contains the possessors' name, correct description of the property in terms of location, size (area), limits, boundaries and neighbors (to the north, south, east, and west).

b. **Verification of Survey:** A stamped, signed survey by a professional licensed surveyor or topographer, identifying the possessors' name, location and reflecting the same information in accordance with the

Certification of Rights of Possession is recommended.

c. **Inspection:** An inspection will evaluate the physical occupation, no opposition by third persons, and good faith. A physical inspection to identify and mark the points of the property as well as confirmation of these points with the neighbors to ensure that there are no future boundary conflicts should be done by your surveyor. Also, the property should be maintained and fenced to clearly delineate the boundaries.

d. **Permitting Verification:** If the buyers' intentions are to build a certain type of structure or project on the possession rights property (for example, a marina, port, hotel, airstrip, etc.), it is necessary to verify any national or municipal regulations that may prohibit those activities in the area.

3. **Buy-Sell Contract:** The final balance is paid to the seller, or an escrow agent, once the possession rights certification is transferred or changed to the buyers' name. Contracts relating with the purchase of Rights of Possession cannot be registered at the Public Registry, but can be authenticated by a public notary.

4. **Possession Rights Certification Transfer:** Possession rights for the property are officially transferred to the buyer when the Certification of Rights of Possession is transferred to the buyers' name. Transfer to the buyer's name occurs when the buy-sell contract is signed by each party. If the possession rights are in a corporations' name, there is no transfer of certification, only a transfer of shares of the corporation. The buyer can keep the same officers in the corporation or appoint new members. Buyers of corporate possession rights properties through the purchase of the corporation itself, should ensure the annual corporation tax (Tasa Unica) is up to date. A change of corporate officers cannot be officially recorded at the Public Registry if the tasa Unica is in arrears.

### **Concession Property**

Concession property is not unlike "land lease" arrangements, common in Mexico or Hawaii. Concession Property is government owned property, where the government has granted a concession to an individual or organization for a specific purpose, such as a real estate development, hotel, or marina. Concessions in Panama are generally granted for a maximum of 20 year (renewable) periods. Some concessions are granted for up to 40 years (renewable) in specially designated areas such as the Amador Causeway or where there are commercial and condominium developments currently being sold (Naos Harbor, for example).

Concession Property is often located on islands, in special coastal or other protected areas where titles are not permitted by law. Real estate developments over concession property often offer investors time share or fractional ownership arrangements. Unlike Possession Rights property, Concession property is guaranteed by the government through a specific contractual agreement.

### **CONTRACTS IN ENGLISH HOLD NO LEGAL WEIGHT IN PANAMA.**

Contracts signed are legally binding documents, and you should ensure that you have read and understood them completely before signing.

All judicial processes in Panama are conducted in Spanish. For any real estate transaction in Panama, a contract written solely in English carries no legal weight, and is generally not recognized. All contracts for property must be in Spanish on a formal public deed, and signed before a public notary, in order to be legally enforceable and where applicable, be filed at the Public Registry.

**GET PROFESSIONAL HELP.** Buying real estate in a foreign country should not be guesswork. As when purchasing real estate in the U.S., common sense should be the guiding factor. Again, engaging a reputable attorney and licensed real estate broker is recommended. While a good real estate agent can help you through the steps of buying, he cannot provide you with legal advice; an attorney does that. Even some Panama City-based real estate lawyers might not be fully familiar with such intricacies as land law in certain areas, e.g., Bocas del Toro.

Panama's Bar Association and Supreme Court advise that the Supreme Court issue a "Certificate of Good Standing" to lawyers. The Court receives complaints about lawyers and decides whether to sanction them. This certification may be requested via fax or mail from the Panamanian Supreme Court from: Lic. Carlos Cuestas, Secretario General de la Corte Suprema de Justicia Organismo Judicial, Calle Culebra, Edificio 236 and 237, Ancon, Panama, Republic of Panama. Tel: (507) 262-8358, Fax: (507) 262-2505. Note that such a certification is still no guarantee.

The Embassy also maintains a list of lawyers; write us at [panama-acs@state.gov](mailto:panama-acs@state.gov) for the list. The Embassy assumes no responsibility for the professional ability or integrity of the persons or firms whose names appear on this list. They are, however, selected with care.