

Family matters involving French property

If it is agreed between parties that a French property is to be transferred from joint names or one party to the other as part of the financial arrangements in a divorce matter, there are cost issues which divorce solicitors may not be aware of when preparing the draft court order. The following issues should therefore be taken into account at an early stage in order to assist in the transfer of the property to the relevant party.

Notaires who are French government officials have a monopoly over any dealings with French properties and as such, even if the English courts make an order for the property to be transferred, this has to go through the notaire who was initially involved in the acquisition as he/she will hold the original title deeds and has the authority to prepare the relevant transfer deed.

The notaire's fees for dealing with the transfer which are based on the value of the property range between 1 and 4 % and include all relevant property taxes and stamp duties as well as the costs of drafting the deed. An official valuation of the property will need to be prepared either by an estate agent in France or a notaire.

In addition to these lawyers fees, other disbursements will need to be incurred such as an official translation of the Court Order notarised and sealed with the Apostille from the Foreign Commonwealth Office (costs approx. £230 plus VAT); each party will need to put in place a Power of Attorney appointing the notaire to sign the transfer deed on their behalfs instead of them attending the notaire's office in person (this saves the costs of travelling to France and ideally this should be done as soon as possible to avoid problems in getting the parties signature to the document once proceedings have ended). Each Power of Attorney will need to be notarised and sealed with the Apostille and each will cost in the region of £130.

There may also be a Capital Gains Tax liability in France as well as in the UK and professional advice from a tax adviser or

accountant will be required in order to calculate the tax liabilities. Tax paid in France can be offset against the tax liability in the UK under the Double Taxation Treaty and the CGT tax rate in France for non-French residents is 16% compared to the tax rate in the UK of 18%.

The notaire will also need the following information and documents in order to proceed with the transfer as quickly as possible:

- » Full names and addresses of each party including maiden name, date and place of birth and marriage, occupation;
- » Certified copy of passport and birth certificate and any change of name deed if applicable;
- » Confirmation if the parties have adopted a French marriage contract under the Hague Convention;
- » Details of the original financial contributions to the purchase of the property and details of any mortgage with bank and account numbers as formal redemption figures will be needed;
- » Copy official valuation of the property from the notaire or agent.
- » Copy title deeds to the French property or Attestation from the notaire which would include details of the original vendors, address and cadastral reference of the property and how the property is owned.
- » Sealed copy of the Court Order as soon as this has been granted.

In addition to the above fees and disbursements, our fees are based on the hourly rate of £195 and it usually takes 3-4 hours to deal with the whole process and liaise between parties including French authorities and Foreign Commonwealth Office. Our fees are usually in the region of £800.

Summary of costs:

Notaire's fees (ranging between 1-4% of value of property)	
Court Order translated and sealed	£230
Powers of Attorney to be notarised and sealed	£260
Solicitors Costs	£800
Total :	£1,200 plus notaire's fees
Time estimate from time of instructing notaire with all the above information and documents supplied through to registration of Transfer	1 -2 months

French Law Matters can also assist in a whole range of other non-contentious issues including:

- » Sales and purchases of resale , new built, leaseback properties and plot of land;
- » Inheritance involving French assets;
- » Advice on planning applications
- » Advice on tax planning and inheritance issues;
- » French wills and powers of attorney;
- » Long term and short term rental agreements;
- » Company formation

Please do not hesitate to contact us if we can be of help.