

## Need to know - Purchasing Off Plan

Purchasing an off-plan property on the Costa del Sol is an exciting venture, but because you are buying something that doesn't exist yet, the process, tax structures, and risks are completely different from buying a resale home. Navigating this successfully requires a clear understanding of the timelines, financial obligations, and legal safeguards from day one.



### THE OFF-PLAN BUYING PROCESS

The journey from initial blueprint to holding the keys follows a rigid timeline regulated by Spanish law.

#### 1. Legal Setup & Reservation: Immediate.

You choose the unit and sign a **Reservation Agreement**, paying a fee (typically **€6,000 to €10,000**). This freezes the price and takes the property off the market. During this window, you must secure your **NIE** (Foreigner Identification Number) and open a Spanish bank account.

#### 2. Due Diligence & Private Purchase Contract (PPC): Within 30–45 Days.

Your lawyer verifies the developer's ownership of the land, confirmed building licenses (Licencia de Obra), and proper planning permissions. Once satisfied, you sign the **Contrato Privado de Compraventa (PPC)** and pay the first major instalment—usually **20% to 30%** of the purchase price (minus the reservation fee).

#### 3. Staged Payments: Over Construction (18–24 Months).

You pay construction milestones outlined in your PPC (e.g., another 10% to 20% split over structural completion, roofing, etc.). **Crucial:** Every single payment made during this phase must be met with an individual bank guarantee from the developer.

#### 4. Completion & Handover: Upon Building Sign-off.

Once construction finishes, the developer obtains the **First Occupancy License (Licencia de Primera Ocupación or LPO)**. You, your lawyer, and the developer meet at a notary to sign the Public Deed of Sale (Escritura de Compraventa). This is when you pay the remaining balance (typically 60% to 70%, often funded by a mortgage).

### WHEN ARE TAXES DUE?

When buying a new build/off-plan property in Andalusia, you do not pay the standard resale transfer tax (ITP). Instead, you pay **VAT and Stamp Duty**. Crucially, these taxes are **staged alongside your payments**, not just paid at the very end.

Tax Type	Rate (Andalusia)	When It Is Due
IVA (VAT)	10% of the property value	Paid <b>pro-rata with every instalment</b> . If you pay a 20% deposit, you must pay 10% VAT on that specific amount at that time. The final 10% VAT on the remaining balance is paid at completion.
AJD (Stamp Duty)	1.2%	Paid in full <b>at the notary upon completion</b> when the public deed is signed.
Other Fees (Notary, Registry, Legal)	Approx. 1.5% to 2%	Paid <b>at completion</b> to formalise the deeds and register the property in the Registro de la Propiedad.

**my place in the sun Budgeting Tip:** Always budget **13% on top of the purchase price** to cover VAT, Stamp Duty, legal fees, and notary costs.

#### MITIGATING THE RISKS

Off-plan buying has distinct pitfalls, but they can be heavily mitigated by asserting your legal rights.

- **Insist on Bank Guarantees (Aval Bancario):** Under Spanish law, developers must secure your staged deposits with either a bank guarantee or an insurance policy (Seguro de Caución). If the developer goes bankrupt or delays construction significantly, the bank is legally obligated to return your money with interest. Never transfer funds directly to a developer's general account; it must go to a secure escrow/fiduciary account linked to your guarantee.
- **The Power of the LPO:** Never execute the final deed at the notary without proof of the Licencia de Primera Ocupación (LPO). Without this document issued by the local town hall, you cannot legally inhabit the property, connect to mains water and electricity, or legally rent it out to holidaymakers.
- **Check the "Assignment of Rights" Clause:** If you intend to sell the property before it is finished (flipping), ensure your private contract includes an Alineación de Derechos (assignment of rights) clause. Without it, the developer can block you from transferring your contractual rights to a third-party buyer before completion.
- **Retain Independent Representation:** Avoid using the developer's in-house legal team or the sales agency-recommended lawyer who handles the developer's macro-conveyancing. You need an independent abogado acting solely in your interest to verify insurance policies, cross-reference municipal building scopes, and review contract



structures. **my place in the sun** can put you in contact with an independent lawyer that speaks your language and will work solely in your interests.

### **CAN I GET A MORTGAGE AS A NON-RESIDENT ON AN OFF PLAN PURCHASE?**

**Yes**, Spanish banks are highly accustomed to lending to international buyers on the Costa del Sol. However, the lending criteria are notably stricter than they are for fiscal residents.

#### **General Non-Resident Lending Terms**

- **Loan-to-Value (LTV):** Generally capped at **60% to 70%** of the lower value between the purchase price and the official bank valuation. This means you must provide a cash deposit of **30% to 40%**, plus the 13% for taxes and transaction fees upfront.
- **Debt-to-Income (DTI) Cap:** Spanish lenders enforce a strict affordability rule: your global monthly debt obligations (including your home mortgage, loans, and the new Spanish mortgage) cannot exceed **30% to 35% of your net monthly income**.
- **Loan Term:** Usually capped at **20 to 25 years**, with the strict condition that the mortgage must be fully repaid before you reach age 70 or 75 (depending on the bank).
- **Product Shifts:** For loans below €500,000, fixed and mixed rates (e.g., fixed for 3–5 years, then variable) are common. For ultra-high-value mortgages exceeding €500,000, lenders heavily favour variable-rate structures tied to the Euribor index.

#### **The Mortgage Timeline**

Because off-plan properties take years to build, a bank will not formally approve a mortgage until the property is roughly **90% complete and a formal valuation can be carried out**. While you can get an initial "pre-approval" based on your current financial profile, your actual mortgage contract will be finalized only a few months before the keys are handed over.