

Real Estate in Costa Rica

Purchasing Property In Costa Rica:

A Guide to Understanding the Real Estate System and Buying Process

Introduction

The acquisition of real estate is one of the most significant investments a person makes during his or her lifetime. It can also be one of the most stressful. In foreign countries such as Costa Rica, the normal stress of the purchasing process can be compounded with other risk factors, such as language barriers and unfamiliarity with local laws and procedures. That said, foreigners can and do legally and successfully purchase property in Costa Rica. In fact, Costa Rica offers potential buyers many types of real estate products including houses, condominiums, time-shares, farms, finished lots and beachfront property. The following guide is designed to help buyers navigate their way through the real estate buying process for all types of purchases.

Property Ownership and other common forms of possession

Just like in the US, Canada, and Europe, there are different types of property available to buyers. Understanding the various types that are available for purchase is critical in the evaluation process. This section highlights the property types that can be purchased in Costa Rica and the

implications of each type of ownership for the buyer.

Fee Simple

The most comprehensive form of property ownership in Costa Rica is fee simple ownership. Fortunately for foreigners, the conditions for this type of ownership are the same for Costa Rican nationals as they are for foreigners. The concept of fee simple ownership is the same in Costa Rica as in the US. Basically, fee simple ownership gives the owner of the property the absolute right to materially own the property, use it, enjoy it (i.e. usufruct), sell it, lease it, improve it (i.e. transformation), etc., subject only to conditions outlined in the Costa Rican Laws. Fee simple also means that if the owner is obstructed from enjoying any of his/her rights to the property, he/she has the right to be made whole, in other words, have the property restored in its original condition. Buyers who purchase fee simple title have the most rights under to law to enjoy and use the property as they see fit.

Concessions in the Maritime Zone

Concession property is more commonly known as beachfront property. In Costa Rica, 95% of beachfront property is considered concession property and is governed by the Maritime Zone Law and other specific regulations including but not limited to special dispositions stated by

municipalities and the ICT (Costa Rican Institute of Tourism). These legal dispositions set forth the conditions under which foreigners and local residents can own concession property. A concession in Costa Rica is defined as the right to use and enjoy a specific property located on the maritime zone for a pre-determined period of time. The state, through its respective municipality, grants this right. Not that the first 200 meters measured horizontally from the high tide line defines the boundary of the maritime zone. This zone also includes islands, pinnacles of rock, mangroves, estuaries, small islands and any small natural formation that overcome the level of the ocean. This 200 meter zone is divided into two areas:

Public Area: The first 50 meters measured horizontally from the high tide line. This zone is not available for ownership of any kind. No kind of development is allowed except for constructions approved by governmental entities. Further, this area is deemed a public area and any individual wishing to utilize this area for enjoyment has the right to do so. In other words, there are no truly private beaches in the Maritime Zone

Restricted / Concession Area: The next 150 meters. This area is available for Concessions to be granted. A concession is in essence a "lease" on the property granted to the lessee for a specific period of time.

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Normally the concession period is granted for 20 years. An owner of a concession may build on that concession, subdivide the concession and perform other acts to the property. However, appropriate permits from the local municipality must be obtained.

Ownership Limitations: Unlike fee simple property, foreigners do not have the same rights as citizens when it comes to purchasing concession property. The law establishes that foreigners cannot be majority owners of a concession property. A foreigner can, however, enter into a partnership with a Costa Rican citizen where the ownership is divided 49%/51% between the foreigner and Costa Rican respectively. One exception is if a foreigner has resided in Costa Rica for at least five years, they may be majority owners of a concession. Both foreigners and Costa Ricans alike are required to purchase all Maritime Zone property through concession.

Properties in Condominium

When US citizens think of Condominiums, they normally think of large apartments or townhouses. In Costa Rica, however, there is a specific law called "Condominium Law" that provides certain benefits to developers of many different types of properties, including single family residence projects, finished lot projects, condos, etc. This set of laws

allows a developer to restrict and regulate certain aspects of the development. Each Condominium development has its own bylaw containing all of the restrictions, limitations and privileges that can be enjoyed by individuals who purchase a property in such development. Ownership of property "in condominium" is fee simple ownership, but usually carries with it a few additional restrictions set forth by the developer. It is advised that you require the owner of the property to give you a copy of the by-laws to check for architectural guidelines, land use restrictions, and other limitations that may be placed on your property. Most often, developers use the condominium laws to allow them to build private roads in a development and set architectural guidelines. For the most part, condominium laws are designed to protect the integrity of a development and maintain the "look and feel" of the project.

Untitled property

There are properties in Costa Rica that are not recorded at the Public Registry of Properties. Families have inhabited some properties of this type for generations while others have never been occupied. In either case, it is possible that someone claims that they "own" the property and may put it up for sale. They may even have fence lines or other boundary markers that separate "their" property from a neighbor's.

Regardless of the time that an inhabitant has lived on the property or to what extent they have demonstrated ownership, unless that property is registered at the Public Registry, there is no official owner. i.e. the title is unclear. It is strongly recommended that this type of property be avoided at all costs because there is no way to prove that the "owner" has the right to transfer the property, or even worse, what the dimensions of the property really are.

Time Share

This option allows an owner the right to use a property for certain weeks in the year. In most cases the time-share ownership grants similar rights as implied in the condominium regulation except that in the time-share is limited to certain weeks during the year. In this manner one single unit is subdivided into parts and sold individually. Time-share resorts are not common in Costa Rica.

Article courtesy of Stewart Title Insurance Costa Rica.

TO BE CONTINUED (Can't wait until our next issue to see Part 2? Check out the entire article, and many others, on our comprehensive Real Estate and Tourism website at: www.thecostaricaguide.com