

PROPERTY REGISTRATION AND LAND TITLE

With the profile of a democratic and peaceful country, Costa Rica has incredibly beautiful scenery, amazing mountains, rainforests, volcanoes and about 4% of the world's biodiversity. Besides this, in Costa Rica non-residents or foreigners have the same rights as Costa Rican citizens when purchasing real estate and law guarantees such property ownership rights.

Add to these benefits, the fact that land and house prices in this beautiful country are highly affordable in contrast with the U.S. and European prices. Many investors from all over the world find in Costa Rica an excellent alternative to the insecurity of other real estate markets.

The Costa Rican Government welcomes foreign investment. There are generally no restrictions for foreign entities or people in acquiring property or conducting business in Costa Rica. The investor is free to enter into local contracts and enjoys the same protection as any national citizen.

When purchasing real estate in Costa Rica, proper registration of the property, and not the deed itself, is of great importance. That is, because even though a person may have an apparently "legal" title to a piece of property under his name, it does not necessarily mean that he is the legal owner. All Costa Rican land is registered at a central depository called the *Registro Público de la Propiedad (Public Registry)*, and it is there that one should begin the title search for a parcel of land. This institution certifies who owns the property, as well as all the information related to the parcel: its location, nature, measures, boundaries, plot map, etc.

- **Title check for third party rights**

The title must be checked for any liens or encumbrances, of which the Public Registry keeps scores. It is very important to carry out an effective research of the property, to avoid subsequent problems (such as losing possession of property thought to be legally owned).

Title guaranty services are now available through Stewart Title Guaranty Company, based in San Jose. Stewart Title advertises escrow and title guaranty services to protect the consumer throughout the process of acquiring land, and to indemnify him for losses that may be incurred. Stewart Title is a 105-year-old U.S. company based in Houston, Texas, with over 3,500 offices in the U.S. and abroad.

- **Legal Protection of such certificate**

The National Registry maintains records of all rights and interests pertaining to real property. The purpose of the institution is to guarantee the security of registered property rights. The mechanism by which this goal is accomplished is through the dual processes of inscription and publicity. Any title which constitutes, recognizes, modifies, or extinguishes an ownership right, usufruct, use, tenancy ("habitación"), servitude, mortgage, or rental right should be inscribed in the Public Registry. Titles that are not inscribed have no effect against third parties.

- **Deed status of the land**

Property rights differ depending on the kind of title and ownership. Our Constitution grants foreigners the same rights as property owners that nationals have, with few exceptions, one being ownership of beachfront property leases. Others are specially titled property, with transfer restrictions (with encumbrances for example). One can have full property rights, or restricted ones.

In the case of certain beachfront property or other government owned lands, it can be held (not owned) through a concession granted by the government for a maximum period of 20 years. Private property can also be held by lease, by usage agreements, as a squatter, de facto occupant, or occupant with permission from owner without rent payment, as well as in several other ways.

Different statutes regulate property owned and held in different ways. So it is important to discuss it with your attorney.

LEGAL STRUCTURES FOR BUSINESS INTERESTS

1. Types of Legal business organizations

Costa Rican law recognizes the following forms of business organization:

- Anonymous Corporation (*sociedad anónima*);
- Limited liability company (*sociedad de responsabilidad limitada*);
- Liability companies (*sociedad en comandita* and *sociedad colectiva*).

Corporations are the most common entities given their structural flexibility.

Incorporation costs include stamp costs plus legal fees. Stamp costs are approximately \$40.

Generally the government will not seek to participate in the ownership or operation of the entity.

Foreign nationals may be shareholders and/or serve as board members or officers. Nevertheless, whenever the company has no legal representative with domicile in the country, a registered agent must be appointed for purposes of receiving notices. There is no requirement to the effect that a national has to participate in any capacity.

Under Costa Rican civil, commercial and administrative laws, corporations are separate legal entities regardless of ownership of stock or other forms of relationship. The so-called "corporate veil" is respected. Responsibility or liabilities of a company do not reach its shareholders, parent company or other related entities. The Commerce Code indicates that shareholders obligations are limited to payment of the capital stock.

There are no restrictions on capitalization. However, whenever capitalization causes an increase in the capital stock of a company, the resolution to increase the capital stock must be done through a public deed, published in the official Gazette and registered with the Public Registry.

2. Joint Ventures

Joint Ventures are permitted even though there is no specific regulation pertaining to them. They are created and regulated through general contract regulations and usually result in the incorporation of a special purpose company.

STAGES OF A COMMON REAL ESTATE TRANSACTION

1. Identify the property you want to purchase
2. We recommend constituting a corporation, and by means of that corporation, one can sign an "Intent of Purchase Contract".
3. Once the term established on the intent of purchase contract is over and the down payment has been canceled, the title document (escritura de traspaso) is signed.
4. Final payment has to be cancelled at this time.
5. The title document is send to the Public Registry to be registered.

6. In a one-month term, the parcel is transferred to the new owner, and based on the registration and publicity principles that support the Costa Rican real property rights, the new owner has full government protection.

What Attorneys do from step one:

- a. Perform a thorough research of the property:

The actual parcel should match up with the documents that describe it: the title document that describes how the property is recorded in the *Registro* in words; and the plot map of the property. Any discrepancies within the two legal documents and the land itself must be resolved before purchasing.

- b. There is documentation needed for the closing:

- A copy of the tax receipt (*impuesto territorial*) proving that all taxes and registration fees are paid as of the date of purchase.
- A certificate (*constancia municipal*) issued by the municipal authority of the Municipality where the property is located.
- Sufficient funds to pay all necessary taxes and registration fees, including notary fees.
- Evidence that all prior mortgages, liens and judgments have been lifted.



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