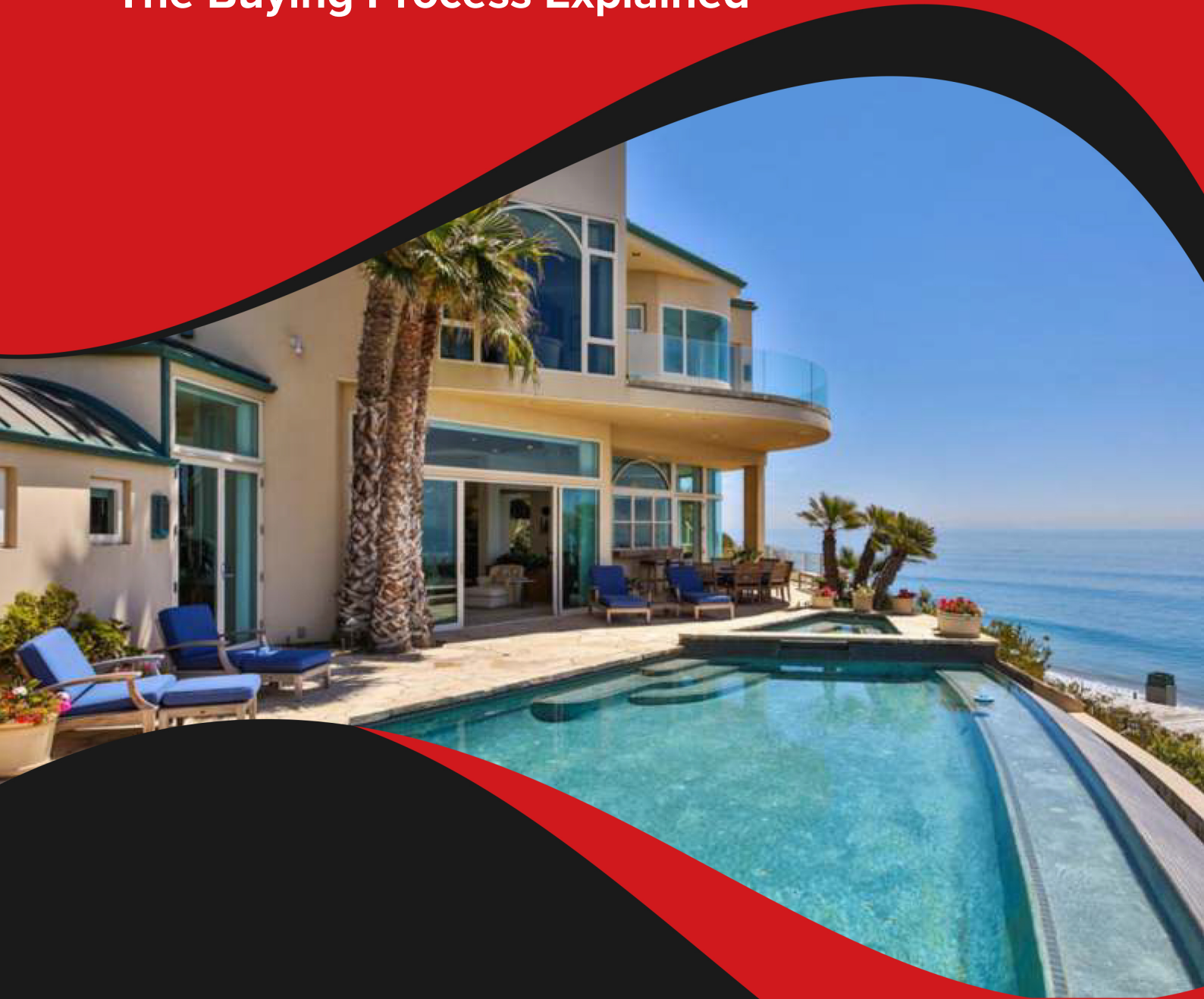




**Dominican Republic
The Buying Process Explained**



#1. CHOOSE A PROPERTY

The buyer tours the area, views real estate, meets other owners, and sees a good overview of the DR. He chooses either a condo or villa for purchase – new or resale.

#2. OFFER OF PURCHASE

A detailed Offer to Purchase is prepared by DR Properties, signed by the buyer, and then presented to vendor/developer.

#3. ACCEPTED OFFER

The vendor agrees and signs off on the price and conditions as set out in the Offer to Purchase. Buyer meets with property lawyer for in depth instructions and information.

#4. DEPOSIT AND DUE DILIGENCE

Buyer wires the deposit to their lawyer's trust/escrow account. Monies are held pending the next contract and completion of lawyer's due diligence on the property (clean title, condo fees, liens)

#5. CONTRACT OF SALE

This document is similar to the Offer of Purchase but is prepared by the property lawyer in Spanish. It outlines the conditions of the sale (English version provided).

#5. BALANCE OF FUNDS

Buyer sends the balance of the monies (unless it is a progress draw construction, then the monies are sent at scheduled intervals during construction).

#7. DEED OF SALE

Or AContrato de Venta. This is the final contract that is used to convey the property from the seller to the buyer. Often, in the case of a resale or quick sale, the law firm will go directly from an Offer to Purchase to the signing of a AContrato de Venta and delete the preliminary step of signing a Promise of Sale.

#8. WELCOME HOME!

The buyer receives ownership of the property, land titles is notified and title changes hands. In the case of a company then a new company is established with the buyers owning the shares, or in the case of a resale, the share ownership is transferred to the buyers upon completion of the transaction

Steps Involved in a Real Estate Transaction

- **Preliminary Steps:** Once a property is chosen for offer, your trusted real estate agent will draft an Offer for Purchase Agreement to present to the seller. Once the buyer and seller reach an agreement on the terms and price, a binding Promise of Sale is prepared by an attorney (solicitor) or notary public which is signed by both parties. (Notaries in the Dominican Republic are required to have a law degree.)

Depending on the parties, due diligence may begin prior to Offer for Purchase, or after the Offer to Purchase and prior to deposit. The lawyer (solicitor) may proceed with the due diligence conditioning the purchase to the results of the due diligence to be done in a specified term. The Offer for Purchase Agreement may be adjusted depending on the findings of the due diligence.

- **Promise of Sale:** This is a formal document, binding on both parties, and signed by them in the presence of a Notary Public. From a practical point of view, it is more important than the Deed of Sale, since it generally contains a complete and detailed description of the entire transaction up to the time when the purchase price has been paid in full and the property is ready to be conveyed to the buyer. A well-drafted Promise of Sale should contain at least the following provisions:

- Full name and particulars of the parties. If the seller is married, the spouse must also sign.
- Legal description of the property to be purchased.
- Purchase price and payment terms.
- Default clause.
- Date of delivery of the property.
- Due diligence required or done.
- Representations by the seller and remedies in case of misrepresentation.
- Obligation by seller of signing the Deed of Sale upon receipt of final payment.

Many attorneys (solicitors) and notaries in the Dominican Republic do not protect the buyer adequately in the Promise of Sale. Among the most common deficiencies are the following:

- The buyer is allowed to pay a large percentage of the price of sale without any security or direct interest over the property. In case of misuse of these funds, the buyer's remedies may be limited to suing the seller personally.

- Payments are not conditioned on the availability of clear title or the adequate progress of construction. Sellers, therefore, may demand payment or place the buyer in default without performing their own basic obligations. This is where having a trusted real estate professional, a competent real estate lawyer and having done due diligence prior to providing a deposit, play an important role in purchasing abroad.

- Mortgage agents are rarely used. The seller or the seller's lawyer, therefore, has control over the funds as they are paid.

- **Deed of Sale ("Contrato de Venta"):** This is also a formal document binding on both parties, and signed by them in the presence of a Notary Public. It is used primarily for the purpose of conveying the property from the seller to the buyer.

In case of a cash purchase, it is simpler and cheaper to go directly from verbal negotiations to the signing of a AContrato de Venta, instead of taking the preliminary step of signing a Promise of Sale.

- **Determination and Payment of Transfer and Registry Taxes:** The authenticated Deed of Sale is taken to the nearest Internal Revenue Office where a request is made for the appraisal of the property. The Internal Revenue Office checks if the seller is in compliance with his tax obligations and selects an inspector to do the appraisal. The determination of the amount of taxes to be paid may take a few days or weeks, depending on the availability of the property inspector.
- **Filing at the Registry of Title:** Once the property has been appraised and taxes paid, the Deed of Sale and the Certificate of Title of the seller are deposited, along with the documentation provided by Internal Revenue, at the Title Registry Office for the jurisdiction where the property is located.
- **Certificate of Title:** At the Title Registry Office, the sale is recorded and a new Certificate of Title is issued in the name of the buyer. The property belongs to the buyer from the time the sale is recorded at the Registry. The time for the issuance of the new Certificate of Title may vary from a few days to a few months depending on the Title Registry Office where the sale was recorded.

Due Diligence

To start the due diligence, the seller should provide the buyer or the attorney with the following documents:

- Copy of the Certificate of Title to the property.
- Copy of the official survey to the property or plat plan (Dislande). Under the new Property Registry Law, the sale of properties without a government-approved plot (Adeslinde@) cannot be recorded at the Registry, except in the following cases: (1) Sales executed before April 4, 2007, which may be recorded during a two-year period ending on April 4, 2009, and (2) Sales of the entire property executed after April 4, 2007 (sales of portions are not allowed), for just one time.
- Copy of his or her identification card (ACédula@) or Passport and that of the spouse, if married.
- Copy of the receipt showing the last property tax payment (IPI) or copy of the certificate stating that the property is exempt from property tax, and certification from the Internal Revenue Office showing the seller is current with his or her tax obligations.

If the seller is a corporation:

- Copy of the corporate documentation, including bylaws, up-to-date registration at the Mercantile Registry and resolution authorizing the sale.
- Certification from the Internal Revenue Office showing the corporation is current with its tax obligations, especially Income Tax and Tax on Assets.

If the property is part of a condominium:

- Copy of the condominium declaration.
- Copy of the condominium regulations.
- Copy of the approved construction plans.
- Certification from the condominium administration showing the seller is current with his or her condo dues.
- Copies of the minutes of the last three condominium meetings.

If the property is a house:

- Copy of the approved construction plans (if preconstruction).
- Inventory of furniture, etc.
- Copies of the utilities contracts and receipts showing that the seller is current.

Once the documentation listed above is obtained, the lawyer should address every item on the following checklist:

- **Title Search:** A certification should be obtained from the appropriate Title Registry Office regarding the status of the property, stating who the owner is and whether any mortgages, liens or encumbrances affect it. The buyer should insist that his or her attorney confirm the results of the Registrars search by investigating the pertinent files at the Title Registry Office.
- **Survey (Dislande):** An independent surveyor should verify that the property to be sold coincides with the one shown on the survey presented by the seller except when the property is located in a previously inspected subdivision.
- **Inspection of Improvements:** A qualified builder or architect should examine any improvements to be sold (house, condo) to confirm that the plans presented are correct and that the improvements are in good condition.
- **Permits:** The attorney should confirm that the property to be purchased may be used for the purposes sought by the buyer. There are many legal restrictions which should be taken into account before purchasing. For example, Law 305 of 1968 establishes a 60-meter maritime zone along the entire Dominican coastline, measured from the high tide mark inland, which in effect converts all beaches into public property. No building is allowed within the maritime zone without a special permit from the Executive Branch. Also, in tourist areas, there are building restrictions administered by the Ministry of Tourism.
- **Possession:** The attorney should check that the seller is in possession of the property. It should be ensured that no squatters rights of any kind exist. Special precautions should be taken with unfenced properties outside known subdivisions. Fencing them before closing is advisable. If there are tenants on the property, the buyer should be informed that Dominican law is protective of a tenants rights and that evicting a reluctant tenant is time-consuming and expensive.
- **Employees:** The seller should pay any employees working on the property their legal severance, otherwise the buyer may find himself liable for the payment later.
- **Utilities:** The attorney or buyer should check that the seller does not have any utility bills pending by enquiring at the appropriate power distributor, water, cable and telephone companies.

Taxes and Expenses on Property Transfers

Taxes must be paid before filing the purchase at the Title Registry Office. Taxes and expenses on the conveyance of real estate are approximately 3.1% of the government-appraised value of the property, as follows:



- 3% Transfer Tax (Law # 288-04)
- Minor expenses such as cost of certified check required to pay taxes to Internal Revenue, sundry stamps and tips at the Registry.

Taxes are paid based on the market value of the property as determined by the tax authorities, not on the price of purchase stated in the deed of sale.

Property Taxes

Properties held in the name of an individual are subject to an annual property tax (“IPI”) of 1% of government-appraised value in excess of 6.5 million pesos, except for unbuilt lots or farms outside city limits and properties whose owner is 65 years old or older, who has registered it in his or her name for more than 15 years and has no other property. The real estate tax is payable every year on or before March 11, or in two equal installments: 50% on or before March 11, and the remaining 50%, on or before September 11.

Legal & Professional Fees

Your real estate lawyer will charge you a percentage of the purchase price of the property. Generally fees are 1 to 1.5% of the purchase price. This amount includes all disbursements, due diligence, and will convey the title into your personal name or corporation, depending on which way you choose to buy. Real estate fees are paid by the seller or developer, not the purchasers.

Purchase of Real Estate by Foreigners

There are no restrictions on foreigners purchasing real property in the Dominican Republic. Formerly, Decree 2543 of March 22, 1945 and its amendments required that foreigners obtain prior Presidential approval except in certain cases. Decree 21-98 of January 8, 1998 abolished this regulation and established as the only requirement that the Title Registry Offices keep a record, for statistical purposes, of all purchases made by foreigners.

Inheritance of Real Estate by Foreigners

There are no restrictions on foreigners inheriting title to real property in the Dominican Republic. Inheritance taxes have been recently lowered to 3% of the appraised value of the estate.

Inheritance of real estate is governed by Dominican law which provides for “forced heirship””: part of the inheritance must go to certain heirs by law. For example, a foreigner with a child must reserve 50% of the estate to that child despite the existence of a will or of the law of his country of residence. To avoid the application of Dominican rules of inheritance to the estate, it is advisable to consult with a knowledgeable estate planner.

Things to Consider When Buying Foreign Property

SECURITY: It is important to consider your property will most likely need to have good security and a property management company that looks after it in your absence. This includes housekeeping, gardening/pool care, general maintenance, bill payments, etc. Both condos and houses offer these services – we call it “lock up and leave”.

RENTAL MANAGEMENT: Foreign buyers are generally using their properties to generate income or at least pay for themselves when they are not using them. This often makes buying foreign property possible. Choose a country like Dominican Republic that has affordable real estate prices and a great tourist market, that way you can be ensured of holiday renters. Some of our developers actually offer a rental guarantee. The Dominican Republic is the #1 Caribbean tourist destination, with Cabarete being a water sport haven with strong winds and solid waves for surf.

GOVERNMENT: Ensure that the government is well tied to the US and Canada via free trade agreements, investment, etc. This ensures that it will continue to develop for its people and will maintain a solid democracy. Research corruption. Some countries are extremely volatile due to political corruption and drug trade. Ensure the government is foreign investment friendly, there are no restrictions on living or buying there (strange visa requirements), and that your property is registered to you.

MEDICAL SERVICES: Ensure there are excellent medical services close by that accept either travel insurance or local insurance. As we get older, this becomes more important.

TITLES: Ask if your title is in your name and registered to you. Most times titles should be clear, in the sellers name but extenuating circumstances exist which require further due diligence. Make sure your lawyer speaks English and ask to see an English version of your contract. Find a reputable realtor who understands the market you are coming from. Sometimes terminology is different and can be confusing. As an example: what Americans call an escrow account, Canadians call a trust account.

RESALE: Is there movement in the market, are resale prices appreciating? See how long property is on the market.

COMMUNITY: If you plan to spend any amount of time in the country you choose, and not just use the property as an investment, ensure there is a large community of like minded people. The beach is great, and hot weather is wonderful, but you will get lonely. Women particularly need to have a community of other women they can be friends with, or life can be lonely. In the Sosua/Cabarete area, there is a large community of travellers from all of the world. Even if people come and go, they are welcome to join in the community at bbq's, events, Sunday adventures etc. Also, when you have a like minded community, it makes adjustment to the area easier, you learn where to shop, buy furniture, etc.

TAXES: Check out your new country's tax laws: property taxes, inheritance taxes, capital gains, etc. Canada expects us to declare our worldwide income, but your new country should not have their hand in your pocket as well.

DISTANCE TO AIRPORT: Travel can be a tiring experience. The last thing anyone wants is an additional three hour drive to the airport after they land in their new country. Cabarete is only 25 minutes away from the Puerto Plata Airport.

BUILDERS/DEVELOPERS: Does your real estate agent know the developers? Are they trusted in the community? Are the reputable builders? Are there example properties/buildings to view? Do they have any previous experience building?

SAFETY: Having a trusted real estate agent within the community who is well aware of the subdivisions and locations plays an important role in deciding where to purchase, especially if you are purchasing sight unseen.

Deslinde Explained – Survey & Compliance – Real Property Report

Real estate transactions in the Dominican Republic were modernized with Property Registry Law # 108-05, which went into effect April 4, 2007. Among other things, the new law requires a “deslinde” for all real estate transactions.

A deslinde is a legal procedure that segregates a portion of land within a parcel from all the other portions within the same parcel. The segregated portion becomes its own parcel with its own cadastral designation that is guaranteed by a definite title. No recorded property rights are possible without a deslinde.

The current procedure for deslinde has three phases: the survey phase, the judicial phase, and the registration phase.

Survey phase: A certified surveyor measures the property using G.P.S. coordinates after giving notice to all owners of the neighboring properties. The survey is submitted to the Regional Survey Office for review. If approved, the Office provides the new parcel with a new cadastral designation and allows the procedure to continue to the second phase.

Judicial phase: In this phase, the deslinde goes to the First Instance Land Court, where neighbors or any interested third party may object. Parties must be represented by an attorney. The judge rules on the deslinde and, if approved, the Registrar of Titles is authorized to cancel the old provisional title and issue a new definite title with the new cadastral designation.



Living in a Gated Community

Crime Deterrent: The Dominican Republic is a lovely country. It's safe to walk down the street in the middle of the night. Is there crime? Of course -just like in any country. However, most are not of a violent nature. Even a modest, middle class North American way of life is a large upgrade for the average Dominican person. A gated community provides a visible deterrent and boundary. Thieves know that breaking in is difficult and may result in guards holding them for arrest.

Lock up and leave: If you plan on going back and forth to your home country, a gated community provides protection and monitoring of your property in your absence. Guards walk about day and night – they notice if something is amiss with your property. Even a water leak is detected and handled on your behalf.

Medical aide: In many developments, security guards are medically trained to handle emergencies. They provide an instant form of contact in the middle of the night if someone requires assistance.

Renting Your Property

Positives: The big upside to renting your property is not having any bills in the DR – and more likely to earn an income over and above monthly expenses. It's great to make your initial investment in a condo or villa, and then have the property carry itself. Most properties are cash flow positive which gives the opportunity to investors to use the money for their travels, or even have it wired back to their home country. In Ontario, cash flow positive properties seem to exist.

Less than Advantageous: The cons to renting include wear and tear, having strangers in your home, and being unable to truly personalize the property. While rental companies are good at ensuring your condo or villa doesn't sustain damage, normal wear and tear like paint marks, furniture deterioration, loss of dishes, etc. is a normal occurrence. Expect to purchase a lot of towels, sheets, and glasses! These are all considered a cost of doing business. Actual damages are not acceptable: broken lamps, bbq's, stereos, etc. Renters are charged for any actual damages they cause.

Dominican Republic Financing Options

1. Refinance or place a home equity line of credit on an existing property in your home country to pay for the DR purchase:

- Often a better option as rates are better
- More mortgage products are available to you
- It takes less time
- In many countries the interest paid is now tax deductible (if DR property is at least a part time rental)

2. Place a new, US dollar first mortgage on the DR property being purchased;

- Interest rates are between 5.95-7%
- Amortizations up to 25 years
- 30% downpayment required
- The approval process is similar to that of North America, with lenders requiring similar documentation
- You can be self-employed

3. Purchase in a project with developer financing .

- Some project developers offer interim financing until bank financing is finalized (new builds).
- Others offer actual long term mortgage financing. Rates and amortizations vary. We can tell you which projects offer mortgage financing.

4. Owner Financing

- Some owners offer financing to the buyers of their property
- Set agreed upon terms between buyer and seller
- Lawyers will be involved in order to ensure legal action can be taken if buyer defaults on payments
- Terms will be set on an individual basis

Steps to Obtaining International Mortgage Financing

Step 1: The Application

ask you about your personal information, details about the property, and obtain your credit bureau report.

Step 2: Approval

Based on the information given, we will submit the application to the appropriate lender and ask for a 'conditional mortgage approval'.

Step 3: Supporting Documentation

The lender will verify that the information given is accurate. You may be required to obtain a letter of employment, income tax forms, etc. In addition, an appraisal of the property to be purchased will be done. For US or Caribbean lending, other documentation, like your passport, will also be required. Below is a partial list of required documentation:

- mortgage application properly filled out and signed
- colour photocopy or scan of passport(s)
- latest income tax documents (Notice of Assessments-Canada, Tax Documents – US & Britain)
- employment letters and pay stubs
- bank statements from last three months
- copy of TransUnion credit bureau (we will show you how to obtain this)
- purchase agreement for property to be purchased
- source of downpayment (investments, savings, etc.)
- appraisal (ordered by lender)

Step 4: Funding

Once all the conditions on the mortgage approval have been satisfied, the lender will instruct your property lawyer to pay the seller and release the keys – to you!
Please allow 3 months – DR mortgage lenders/banks can be very slow..

Important:

For new properties, it is imperative that title and Deslinde be complete in order to obtain mortgage financing. We have a few developments and projects where mortgage financing is possible before the title process is complete. Please ask us for more information.

Foreign property lending is a very exacting process. We are happy to explain the ins and outs and get you started on owning your own investment or holiday real estate.