

DE TULLIO LAW FIRM

International Law Practice

A Guide To Buying Property in Italy



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A Guide To Buying Property in Italy

- Once you find a property you want to buy, carefully consider the legal implications.
- whether you buy through a real estate agent or directly from a vendor, legal knowledge is key to a trouble-free purchase.
- The services of an experienced Italian property solicitor will ensure your interests are protected throughout the process.

Property purchase in Italy proceeds through 3 key stages:

1. Proposta irrevocabile d'acquisto (Reservation Offer)
2. Contratto preliminare di vendita (Preliminary Contract)
3. Atto di vendita (Deed of Sale)

1. *Proposta Irrevocabile d'Acquisto (Reservation Offer)*

When buying a property in Italy the first document you will be called upon to sign is the “proposta irrevocabile d’acquisto”, Reservation Offer.

This is standard practice when purchasing through an estate agent. In contrast, when purchasing directly from the property vendor (private sale), this document is not normally used. There are many legal implications to having or dispensing with a reservation offer. You would be well-advised to consult a solicitor regarding your specific case.

By signing the reservation offer, the seller is agreeing to remove the property from the market for a period of time, normally 15 days. The seller is giving you exclusive rights on the property for that time frame.

During this period, your solicitor, where necessary assisted by a surveyor, will be able to conduct due diligence ⁽¹⁾ carry out relevant searches, including, but not limited to, ascertaining that the property is without any debts, mortgages, claims etc. Due diligence aims to ensure that there are no unpleasant and possibly costly surprises during the final phase of the purchase.

At this stage you will be required to pay a small deposit, which is normally held by the estate agent or solicitor until your purchase offer is formally accepted (signed) by the seller.

Should you finalize the purchase, this deposit will be considered as partial payment of the purchase price. If the seller does not formally accept your offer, the deposit will be returned to you.

It is important to highlight that the reservation offer is only binding upon the buyer until formal written acceptance of an offer is received from the seller. At that point, once signed by both parties, the reservation offer becomes a legally binding document between both parties.

(1) For more information, see De Tullio Law Firm’s Guide to Selling Property in Italy

Normally at this stage, buyer and seller having agreed to go ahead with the conveyance, will formalize their agreement by drawing up a *Contratto Preliminare di Vendita*, a Preliminary Contract.

2. *Contratto Preliminare di Vendita (Preliminary Contract)*

Some estate agents, and property owners in the case of a private sale, choose or recommend to leave out this essential part of the purchase process.

However, this legal document really is extremely important. The *contratto preliminare di vendita* sets out the detailed terms and conditions of the sale. This is why it is highly advisable to engage the services of a solicitor to draft this contract to ensure that all the details are in your best interests.

If your vendor has had the *contratto preliminare di vendita* drawn up by his legal advisor, it is important that you have your own solicitor examine it.

Your own solicitor will be able to provide detailed advice on the implications of the preliminary contract before you sign it.

One of the essential legal elements of the preliminary contract is the payment of a deposit (*caparra confirmatoria*), normally equivalent to a minimum of 10% of the purchase price.

Your deposit will not be refunded if you back out of the preliminary contract without a valid legal reason.

On the other hand, if the seller pulls out of the sale, the seller will have to refund your deposit in full. You also have the right to pursue a claim for double your deposit through the Italian courts.

In the preliminary contract the parties also set the date to finalize the conveyance in front of the Public Notary.

The Public Notary is a State official who has the authority, in accordance with Italian law, to validate contracts transferring the ownership of a property. The Public Notary is also charged with paying all registry fees and land registry taxes and ensuring the relevant searches on the property are conducted.

Only by engaging the services of a solicitor beforehand can you be confident that no unpleasant surprises will be revealed at this late stage of the purchase process.

The Public Notary must act as an absolutely neutral and impartial party in the transaction. This is why he/she cannot be a substitute for a solicitor in terms of representing the interests of the buyer. The only way for a buyer to be assured of proper legal safeguards is to engage the services of an independent solicitor.

3. Atto di Vendita (Deed of Sale)

The deed of sale is drafted by the Public Notary. It must be fully compliant with all the details and essential elements contained in the preliminary contract.

Italian law requires that the deed of sale must be drafted in Italian and, where one of the parties to the Deed of Sale does not understand the Italian language, translated in to the relevant mother tongue language by a sworn translator. However, for legal purposes the Italian version will prevail.

The signing of the deed of sale usually takes place at the Public Notary's office. The Public Notary will read and explain the Italian version of the deed of sale contract in the presence of the sellers and the buyers, or their legal representatives.

Both parties have the opportunity to read and check the relevant language version of the deed of sale to ensure everything is correct. Having your own bilingual solicitor in attendance at the deed of sale signing allows you to raise any questions, queries and concerns and get immediate responses.

Once the deed of sale has been signed by all those present, the balance of the purchase price is paid to the seller and the keys are handed over to the buyer.

It takes approximately one month, following the signing of the deed of sale, for the deeds of new ownership to be registered at the relevant Land Registry Office. Once registered, a copy of the title deeds will be given to the new owners. If you are not in Italy when your title deeds become available, you can have your solicitor collect the title deeds on your behalf.

Your solicitor can send your title deeds to you or hold them in safe keeping for you.

If the buyer cannot be present in front of the Public Notary on the day of signing the deed of sale, the buyer can give power of attorney to his solicitor who will then sign on behalf of the buyer.



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