

## How to buy a property in Italy

Buying a property in Italy consists in a legal process that needs specialized procedures.

Normally, the purchase of a property in Italy is arranged in three stages, the so called “formazione progressiva del consenso”; it generally contains:

### 1) Irrevocable offer

An irrevocable offer usually contains at least

- a) a deadline for the seller to accept it
- b) the obligation to proceed signing the Preliminary Agreement to buy the selected property
- c) A guaranteed deposit to reserve the right to buy the property for a fixed period of time.

If the offer is accepted, the Preliminary Agreement to buy and sell will be prepared and signed;

If the offer is not accepted by the seller, the buyer will receive the deposit back;

In the case that the irrevocable offer is accepted by the seller, and the buyer fails to purchase the property within the required time, the deposit is lost.

### 2) Preliminary Agreement

This is normally a binding legal agreement to complete the purchase at some future specified date in the office of a Notary.

It would mainly contain at certain terms and conditions the buyer’s obligation to purchase the property and the vendor’s obligation to transfer the ownership of it to the buyer or in favor of a third person elected by the buyer.

Basically the necessary elements required are:

- a) The unconditional commitment of the vendor to sell the property in question and the obligation of the buyer to purchase the property;
- b) The details of the property sold, including the parcel numbers of the relevant Local Land Registry (Catasto);
- c) The agreed total price for the property, and in particular the deposit already paid and the method of payment;
- d) The condition of the vendor to sell the property free of any existing mortgage, third parties right, or other burdens;
- e) The conformity of the property with the town-planning law and Administrative law.
- f) The fixed date for the purchase deed (Rogito).

If the buyer fails to buy the property, the deposit is lost;

If the seller fails to sell and transfer the property, the buyer will receive the double of the deposit.

Actually it is possible to transcribe the preliminary contract; transcription of the preliminary contract protects the purchaser from any prejudicial event that might affect the building ( for example: mortgage or distraints) in the lapse of time between the preliminary and definitive contracts.

Even in the case of bankruptcy of the seller, transcription of the preliminary contract makes it much easier to recover completely or in part any sums paid over.

In the case of an **off-plan property purchase**, the Preliminary Agreement must contain all the required guarantees provided by the “Italian off-plan reform” – D.Lgs. 122/2005; this new law completely guarantees buyers about all the risks involved in the purchase process: in fact, in the case that the vendor gets bankrupt, the buyer – thanks to the received bank/insurance guarantee at the preliminary agreement’s signature - can have all the spent money back, saving, in this way, his investment.

3) The purchase/sale of a property implies for both parties both rights and obligations.

In fact certain rights falling to one of the contracting parties, correspond to equivalent obligations on the opposite party, so that both the seller and the purchaser find themselves involved in a reciprocal tie of demands to be met and duties to be respected.

#### Seller

##### Obligations and duties:

The seller has first and foremost the obligation of handing over the property sold in the actual state in which it is, free of persons and things, to the purchaser at the time of the notarial contract of purchase and sale, and accordingly contextually with the balance of the sales price.

The seller has the obligation of notifying with special form addressed to the local authority of public security within 48 hours from delivery, the assignment of ownership of the building, indicating the name and the address of the purchaser.

The seller has the obligation of indicating to the civil law notary the details concerning the building permission regarding the property sold; of producing all administrative documentation in the case of a building amnesty; or presenting the Certificate of town-planning use issued by the competent Municipality in the case of alienation of land; of guaranteeing the buyer against eviction and errors in procedure; of paying ICI (local property tax) up to including the whole of the month of sale.

##### Rights:

The seller has the right to receive from the purchaser at the time of undersigning the sales contract the entire sum of the price agreed on.

#### Buyer

**Obligations:**

The main obligation of the purchaser is obviously to pay the price agreed on with the seller at the time of underwriting the purchase contract.

**Rights:**

The buyer has first of all the right to receive from the seller delivery of property at the time of the notarial purchase/sale contract, contextually with payment of the price, in the actual state known, with any accessories agreed on, free of things and persons.

The purchaser is entitled to: receive from the seller all the documentation relative to the property (i.e. building amnesties, receipt of payment of the condominium expenses and of many loans bearing on the property); be guaranteed by the seller both against eviction and against any errors regarding the property; to obtain from the seller all useful information about the property.

In order to secure our client about any kind of risk potentially involved into the whole procedure of sale/purchase, we always check and consequently keep informed that :

- 1) The vendor has a valid and registered title on the land/property to be sold.
- 2) If a property is owned by several members of a family, all the owners must give their consent before the purchase.
- 3) There are no debts against the property.
- 4) There is a valid building permission, in particular the aspects about the conformity to the local town all.
- 5) There are no pre-emption rights or restrictive conveyances over the property.
- 6) Eventually, about building amnesty.
- 7) In the case of an off-plan purchase, that all the legal guarantees provided by the reform (D. Lgs. 122/05) are valid.