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Project: How can a foreign citizen purchase real estate in Ukraine?

Client: Newsletter | Legal Memorandum

Overview of legal aspects of security and reliability of the real-estate transaction

Ukraine until 24.02.2022 is a country with a rapidly developing economy, especially the residential and commercial development market. However, even despite the war, economic difficulties and constant news about the security situation, Ukraine continues to attract the attention of foreign investors and private real estate buyers.

Some are interested in apartments in large cities, others - commercial premises, warehouses, production facilities or land plots for future projects. Quite often, real estate in Ukraine is also purchased by foreign citizens who are of Ukrainian origin, have family members in Ukraine or plan to move or open their own business in the future.

The procedure for purchasing real estate by a foreigner has certain features that it is advisable to know about before starting negotiations with the seller.

In this article, we will structurally consider the main stages of purchasing real estate in Ukraine, and also pay attention to the risks before signing the contract.

1. What real estate can a foreigner purchase in Ukraine?

First of all, it should be noted that Ukrainian legislation allows foreigners to purchase most types of real estate in Ukraine.

A foreign citizen can purchase an apartment, residential building, office space, warehouse, shop, industrial building or other real estate. In most cases, the procedure for registering ownership rights is almost the same as for citizens of Ukraine.

At the same time, certain restrictions apply to land plots. Land legislation itself remains the most sensitive area for foreign investors.

For example, foreigners can acquire non-agricultural land plots in cases specified by law. However, the acquisition of agricultural land by foreign citizens is currently significantly limited. Therefore, if it is a question of purchasing a house or commercial facility together with a land plot, the legal status of the land must be checked separately.

It is because of these features that many foreign buyers mistakenly believe that they are generally prohibited from purchasing real estate in Ukraine. In fact, this is not so. In most cases, the issue is not the possibility of purchasing, but the correct legal structuring of the transaction.

2. Obtaining a tax number and preparing for the transaction

Before entering into a purchase and sale agreement, a foreigner must obtain a Ukrainian tax number.

Without it, the notary will not be able to properly formalize the transfer of ownership and register the new owner in state registers.
In practice, the procedure for obtaining a tax number is relatively simple and takes a few business days. Moreover, in many cases, it can be done through a proxy without having to come to Ukraine in person.

At the same time, the buyer should decide in advance on the payment mechanism, the source of funds, and documents that may be needed to confirm the origin of money in banking institutions.

The sooner these issues are resolved, the fewer risks will arise immediately before signing the contract.

3. Is it possible to buy real estate without personally coming to Ukraine?

One of the most frequent questions from foreign clients concerns the possibility of purchasing real estate remotely. In most cases, the answer will be positive.

Ukrainian legislation allows the purchase of real estate through a representative by proxy. This is especially relevant for citizens of the USA, Canada, Germany, Great Britain and other countries who do not plan to come to Ukraine solely for the purpose of signing documents.

To do this, you need to issue a power of attorney in your country of residence, undergo the apostille or consular legalization procedure of the document (depending on the issuing country), and then have it officially translated into Ukrainian.

A properly prepared power of attorney allows the representative to obtain a tax number, open a bank account, when necessary, conduct a legal due diligence on the property, sign a purchase and sale agreement, and register ownership.

That is why many international investors today buy Ukrainian real estate without actually leaving their country.

4. Legal due diligence of real estate: the most important stage of the transaction

The biggest mistake many buyers make is focusing solely on the value of the property and completely ignoring legal due diligence.

In practice, it is the legal due diligence of real estate that often determines whether an investment will be successful.
Before purchasing an object, it is necessary to check the seller's ownership, the history of the transfer of rights to the property, the presence of arrests, mortgages, prohibitions on alienation, litigation, enforcement proceedings, and other encumbrances.

Particular attention should be paid to objects that have been resold repeatedly within a short period of time or have been the subject of litigation between previous owners.

It is worth checking the seller himself separately. For example, if the seller is a legal entity, it is advisable to analyze its corporate structure, director's powers, the presence of bankruptcy procedures, tax disputes, or sanction risks.

Experience shows that even with seemingly flawless documents, there may be circumstances that become known only after a detailed analysis of registers and case law.

That is why professional due diligence often allows you to avoid problems, the cost of which can exceed the costs of legal due diligence by dozens of times.

5. Features of buying real estate during war

After the start of Russia's full-scale invasion, security issues have become particularly important for investors.

Today, when inspecting a property, it is not enough to just examine documents and registers. It is also necessary to assess the actual risks associated with the location of the facility.

It is advisable for the buyer to find out whether the property was in a war zone, whether it was damaged by shelling, and whether there are any risks of future restoration or reconstruction. Particular attention should be paid to facilities located near critical infrastructure, military facilities, or enterprises of defense importance. For many investors, such factors are no less important today than classic legal risks.

6. Signing the contract and registering ownership

After completing the legal due diligence, the parties proceed to conclude a purchase and sale agreement. In Ukraine, such agreements are certified by a notary. It is the notary who checks the parties' documents, the presence of necessary permits and restrictions, and also conducts state registration of the transfer of ownership.

For foreign citizens, translation of documents and participation of an interpreter are usually additionally provided in cases where the buyer does not speak Ukrainian. After certification of the contract, the new owner is entered in the State Register of Real Property Rights and officially acquires ownership of the object.

7. Typical mistakes of foreign buyers

Most often, problems arise not because of the complexity of Ukrainian legislation, but because of excessive trust in the seller or intermediaries. Many buyers agree to a deal only on the basis of copies of documents received by email. Others rely solely on a realtor or developer and do not conduct independent legal due diligence.

Another common mistake is trying to save money on land analysis or property history checks. Unfortunately, these situations often lead to lengthy litigation and financial losses.

Conclusion

Ukraine remains a challenging jurisdiction, especially during wartime. Nevertheless, many foreign investors continue to purchase residential and commercial property here. The key difference between a successful investment and a future legal dispute is often not the property itself, but the quality of preparation before the contract is signed.

Please fin additional info in our YouTube video under link:

https://www.youtube.com/@serafimlawyers9669

We hope that with this Memorandum we have highlighted for you – the main aspects of real estate purchase in Ukraine, the relevant procedures and legal details.

Sincerely,
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