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How the property buying and selling process works around the world

Hugh Graham | Martina Lees | Carol Lewis | Emanuele Midolo

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In many countries the process of buying and selling differs from that in the UK, with most being legally binding at an earlier stage than in England,Wales and Northern Ireland — tending to have lower fall-through rates as a consequence.

Here are summaries of some of the different systems around the world:

Canada

by Hugh Graham

The system in the UK is "absolutely crazy", says Karen Kenyon, a British expat who has lived in Canada for more than 15 years and runs her own estate agency, Vancouver Island Dream Homes.

In Canada when an offer is accepted it is conditional on a survey of the home and a title review — a period of due diligence that lasts one or two weeks. Usually a deposit is made at this time — about 5 per cent of the price. If the buyer discovers a problem in this due diligence period they can use it as a negotiation tactic — "fix this or we will walk away". Even if the seller receives a better offer during this period they can only sell to another buyer if the first buyer pulls out.

If a buyer pulls out before removing conditions, the deposit is returned to them. After a week or two, once the buyer is satisfied with survey and titles, the conditions are removed and the offer is legally binding. A sold sign goes up and there are no more showings. If the buyer backs away they will forfeit that deposit and risk being sued.

"In the whole of British Columbia there are probably three or four deals that fall through a year out of thousands of transactions; it is so infinitesimal we don't worry about it," Kenyon says. "Because of the penalty of losing your deposit most people would rather complete and then resell it if they have to."

Closing dates could be 30, 60 or 90 days, Kenyon says, but the average is 60 days. "Over 15 years I have only had one property that did not close and that was due to a medical situation. Sellers can be confident they can go ahead and buy another house if they have an offer on their house."

United States

by Hugh Graham

Rosalind Clarke is another British expat turned North American estate agent who is baffled by UK buying and selling. Clarke is a broker in Palm Beach, Florida, at Premier Estate Properties, an affiliate of Christie's International Real Estate.

In Florida when a buyer initially makes an offer they typically put down a $10,000 deposit. They sign a contract then have a due diligence period when they can inspect the house. This is typically ten working days and the buyer can pull out at any time by cancelling in writing. There is no penalty for pulling out during this inspection period. If they find something that needs repair they can renegotiate the contract — this happens in 95 per cent of deals. The seller cannot pull out in this initial period. This leaves the seller free to make an offer on another house and, as they also have a ten-day inspection period on their side, if their buyer pulls out they can cancel their purchase too. Once their buyer makes a second deposit, usually about 10 per cent of the purchase price, the contract is binding on both parties.

If the buyer walks away from the deal after this, they will forfeit their 10 per cent deposit but they won't be on the hook for the full value — there is a line in the contract that says the seller can sue the buyer to close if they pull out; however, Clarke and many agents cross that line out. According to a 2017 report by Trulia, a real estate platform, 96.1 per cent of contracts in the US complete.

Closing times vary from state to state, but Clarke says that if you have a mortgage it would typically be 45 days from start to finish; 30 days if you are a cash buyer. "You can't gazump here and there are no chains either."

Selling Sunset
viewers will be familiar with the term "in escrow". All deposits in the US are held by a neutral third-party escrow agent, who is governed by the real estate commission. If the buyer wants their money back and the seller refuses, escrow has strict procedures that must be followed in order for the funds to be released. Funds are held in escrow until closing.

South Africa

by Martina Lees
Think twice before you make an offer on a property in South Africa: you cannot return it like a pair of jeans. An "offer to purchase"(OTP) becomes legally binding as soon as the seller accepts it, with no cooling-off period unless the home costs less than 250,000 rands (£12,100). You can only revoke an offer if the seller has not yet signed it. A buyer who changes their mind after this point will lose their 10 per cent deposit, pay the estate agent's commission and is liable for the seller's costs.

What if you need a mortgage or must sell your home first? Offers can be subject to these conditions, meaning you won't face losses if the bank refuses to lend the required amount. The OTP also specifies the transfer date; rent to be paid if the buyer moves in before the transaction paperwork is completed or the seller stays in situ after the transfer has taken place; defects that the seller must fix; and whether fixtures such as the heirloom chandelier will stay on. However, South Africa's slow bureaucracy means transactions usually still take three months to complete after the document is signed, but they rarely fall through.

Australia

by Carol Lewis
The laws in Australia vary depending on the state, which means the process of exchange or execution of contracts does too, says Chris Orr, head of residential at Savills Australia. Offers can be made in writing or verbally; however, neither are binding unless they are on contract and signed.

"Even so, in most states there is a cooling-off period [of up to five days] that applies to contracts. The penalty per state varies if you were to pull out of a contract under the cooling-off period. In New South Wales, for example, the penalty for this is 0.25 per cent of the total purchase price," Orr says.

After your offer is accepted and a contract signed, you pay 10 per cent of the purchase price in states such as New South Wales. If you pull out after the cooling-off period you will lose your deposit. Once you have signed you typically have four to eight weeks to sort out finance and surveys.

Fall-outs are rare: "If an offer is made at a level acceptable to the seller, the odds of it not proceeding are minimal as our market is fairly conservative, so people that show interest to purchase a property are typically motivated to transact on it."

The process in New South Wales takes an average of 42 days — although this is negotiable and pending the contract terms — while in Queensland the standard is 30 days. If the buyer is paying cash then it can take just a few days, while those arranging funding typically require 30 to 40 days.

The Netherlands

by Carol Lewis
"The system here works very well and deals only fall apart if one party is not honest or realistic, which is really

rare," says Tjerk van der Linden, who sells property for Engel & Völkers estate agency in Amsterdam.

An offer put in by the buyer, or more commonly their agent, isn't legally binding until the preliminary or temporary purchase agreement (which isn't temporary at all) is drawn up by a notary or estate agent and signed by the buyer and seller. After signing the buyer has a three-day cooling off period in which they can cancel the agreement without penalty, although Van der Linden says this doesn't happen very often.

Both parties agree the terms of the deal, including any penalties for pulling out. The buyer then has four to six weeks, depending on what has been agreed in the contract, in which to sort their finances and a survey. Legally the buyer can break the deal if they cannot get finance, although they will need to show proof, or if anything serious is thrown up by the survey that means the sale cannot go ahead. At the point of drawing up the purchase agreement — or at least a month before completion — the buyer must hand over a 10 per cent deposit. This will be paid to the seller if the buyer pulls out for no acceptable reason. The transfer deeds are signed on completion.

Van der Linden says that it usually takes about four months from offer to completion, but that fall-through rates are much lower than in England and Wales. "Only 5 per cent of purchase agreements are terminated. This includes the people who pull back in the cooling-off period."

Spain and Portugal

by Carol Lewis

Alex Vaughn, the founder of the Lucas Fox estate agency in Barcelona, says: "The main difference between Spain and UK is that Spain is a notarial system, so the documents finalising the sale are signed in front of the notary." Another key difference in Spain and Portugal is that few sales fall through once agreed.

Buyers follow a five-step process. Make an offer; if this is accepted by the buyer a letter of intent (LOI), which is not legally binding, is drawn up confirming the general terms of the agreement. A small deposit is paid (about 1 per cent of the purchase price) and the property is taken off the market. A reserve agreement might be inserted here, with both parties signing the LOI on the agreed price. The legal searches and property survey are then carried out. If the buyer still wants to proceed, a contract — a *contrato de promessa compra e venda* (CPCV) in Portugal; a *contrato de arras* in Spain — is drawn up. This is legally binding and formalises the terms and process between buyer and seller. The buyer pays a deposit of about 10 per cent of the purchase price at this stage. Next, taxes are paid before completion, when the final deed is transferred and final payment made.

Jamie Robinson of QP Savills, an estate agency in the Algarve, Portugal, says: "If you pull out after the CPCV you automatically lose the deposit money, and if the vendor gazumps you after the CPCV then you get 20 per cent returned — 10 per cent from you and a 10 per cent penalty. Between the letter of intent and CPCV fall-out is low but post-CPCV it is very rare; I have known only one sale fall through in 15 years. If all the paperwork is in order then offer to deeds can be as short as two to three weeks."

Fall-throughs are a little more common in Spain, although still much lower than in the UK, according to Tom Maidment, of Lucas Fox in the Costa Brava, Spain. "It's not altogether uncommon for an offer to fall through at reserve stage — approximately 10 per cent do. It's fairly unusual for a deal to fall through once the *arras* contract has been signed — less than 5 per cent. The average time from acceptance of offer to completion is about six weeks. It can be as quick as two weeks, but more complex deals can take three months or more," he says.

Italy and France

by Emanuele Midolo

Just like Spain and Portugal, Italy and France are notarial systems and buying and selling in the two countries is fairly similar. The process can be a bit clunky if you are not familiar with the legal system (or the countries' infamous bureaucracies) — it is also often subject to delays — but because reservation agreements in both countries are legally binding, there is generally more security and peace of mind than in the UK. That's the main reason why fall-throughs in Italy and France are extremely rare.

The process is pretty straightforward. Prospective buyers make an offer, either directly to the seller or to an estate agency. As a gesture of good faith and as an incentive to take the property off the market, the buyer could also decide to pay a small sum to the seller (between 1 per cent and 5 per cent of the purchase price). If the purchase goes through this will be added to the deposit. The price suggested by the buyer is only guaranteed for a short period of time — generally between a couple of weeks and a month — and the offer itself can be subject to specific conditions. The public notary is generally chosen by the vendor but acts for both parties and has the duty of performing due diligence and conducting checks on the status of the property.

In Italy if the buyer and seller agree on a price they enter a reservation agreement known as

compromesso

. The agreement is legally binding and if broken either party can seek legal action. Upon signing the agreement the buyer pays the actual deposit — usually about €40,000 to €50,000. If the buyer breaks the contract without a good reason the vendor can retain the deposit and even seek enforcement to complete the purchase; however, if the vendor walks out the buyer can request twice that amount.

“The Italian system is clearer than the UK one,” says Gemma Bruce, founder of the estate agency Casa & Country in Italy. “In the UK you can spend months in limbo, while in Italy there is a clear three-stage system, from the offer to preliminary contract and closing. It’s fully binding and if there are any planning discrepancies they can be resolved before completion.”

Bruce adds that she likes the fact that the notary “acts as a mediator” between the buyer and seller. “I find the system to be really good and it’s very rare for purchases to fall through.”

Similarly, in France the reservation agreement, known as

compromis de vente

, is legally binding. The amount of the deposit is slightly different: usually between 5 per cent and 10 per cent of the total purchase price.

In general such strict rules incentivise both parties to complete the deal. But because the reservation agreements are reviewed by the parties’ lawyers and the public notary, delays are not uncommon.

According to Tecnocasa, a property group, it takes 109 days on average to buy a home in Italy, from offer to completion. Bologna and Milan are the “fastest” cities (51 and 55 days respectively) while Bari in Apulia (180) and Genoa in Liguria (147) are the slowest.

The process is faster in France, where it takes 82 days on average to buy a property; Paris is quickest (40 days) and Perpignan, in the southwest, is slowest (135 days).

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