

# Acquiring property in the Slovak Republic



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In the Slovak Republic ownership title to real estate is registered in the land register. The land register is administered for the Slovak Republic by the land registry offices, which are public authorities with powers in this area. Thus, any acquisition of real estate in the Slovak Republic requires two basic steps: (i) the execution of a written agreement and (ii) registration of the ownership title in the land registry.

## Pre-contractual relationships

Before executing the final purchase agreement it is possible to conclude a preliminary agreement in the form of an agreement to conclude a future purchase agreement. In the preliminary agreement the parties undertake to enter into a purchase agreement with respect to the property within an agreed time and subject to certain conditions.

The preliminary agreement must be in writing and must have all the essential stipulations of the purchase agreement described above or it must be agreed by the parties how these stipulations will be completed. It is usual (and recommendable) for the parties to a preliminary agreement to annex a binding draft purchase agreement. It can be agreed in the preliminary agreement that the missing stipulations will be completed before the execution of the purchase agreement.

Based on the preliminary agreement either party can bring an action for the performance of the purchase agreement if the other party breaches the obligation to enter into it. However, if the obligated party fails to enter into the purchase

agreement and in the meantime transfers the ownership title to a third party, the transfer will be valid and the only remedy for the party with the purchase right under the preliminary agreement will be damages and/or a contractual penalty (if agreed). It is therefore very important to agree upon all terms of the preliminary agreement and to stipulate the respective sanctions applicable in the case of a violation of the obligation to enter into the purchase agreement.

## Verification of the legal status of the property and of other important aspects

Information regarding ownership title can be obtained from the land registry. The land registry records are public in the Slovak Republic, i.e. anybody can enquire and will receive (personally from the respective land registry office or through the internet) an extract from the land register regarding the particular property displaying its current ownership status. The excerpt from the land register provides information on the current owner(s) of the property as well as on any easements, pledges or mortgages.

However, in the Slovak Republic it is not possible to entirely rely only on the information registered in the land register. It is always possible that a third party will claim and will prove a right to the property. This risk can be significantly reduced by reviewing the collection of deeds which is kept by the respective land registry office and which contains the deeds related to the given property. The collection of deeds is not publicly available, i.e. the authorisation of the current owner is required to review it.

In addition, for historical reasons a significant amount of real estate has been subject to restitution proceedings. Although the deadlines for exercising rights of restitution have mostly passed, restitution proceedings may still be pending either with administrative authorities or the courts. It is therefore in the acquirer's interest to check with the relevant land registry office as well as the courts the existence of potential or pending restitution claims.

Furthermore, it is advisable to verify other important legal aspects related to the real estate such as access, connection to infrastructures and permits. Therefore, a complex legal due diligence should be carried on prior to the acquisition. Depending on the type of the real estate other due diligences are also recommendable (technical, environmental).

## Purchase Contract

There are no standardised purchase contracts in the Slovak Republic. The contract can be drafted by either party and need not be drafted by a public notary or certified attorney. However, the purchase contract must include all the particulars required by the applicable law, particularly the Civil Code (such as the identification of the parties to the agreement, a precise identification of the property which is the subject of the transfer and the price or at least the mechanism through which the price will be determined) and, in relation to certain categories of real estate such as apartments, additional terms required by the act on the ownership of residential and non-residential premises. In addition, an agreement by which real estate is transferred must comply with the requirements of the Land Registry Act

specifying more precisely its content. Furthermore, it is advisable that the purchase contract also contains representations and warranties regarding the legal and factual condition of the real estate. As far as the payment of the purchase price is concerned, this is typically ensured by an escrow agreement or, in lower amounts, through payment from notarial custody or in cash.

The purchase agreement must be in Slovak or Czech (any other language version must be translated into Slovak by a certified translator) to be eligible for registration in the land registry. As far as the formal requirements are concerned, the purchase agreement must be in writing, the declaration of the will of both parties must be included in a single document and the signature of the seller must be certified.

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This article is of an informative nature only and under no account can it be considered a legal opinion.

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## Registration of ownership title

Ownership title to real estate is acquired by registering it in the land register following an effective decision of the land registry office. The land registry office decides on the application for the registration of the ownership title within 30 days. The parties to the agreement can apply for registration in accelerated proceedings (subject to a higher administrative fee) in which case the registration is completed within 15 days. The registration fees are relatively low compared to the price of the real estate being transferred.

## Taxes

Currently there is no real estate transfer tax in the Slovak Republic. Some transfers of real estate are subject to VAT. This applies particularly to transfers of building plots as well as to the buildings and the plots below them within five years of the issuance of the occupancy permit.