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**DO AND DON'TS BEFORE FINDING A PROPERTY IN ITALY:
BRIEF LEGAL ADVICE FOR FOREIGNERS IN 3 IMPORTANT STEPS.**

Buying a home in Italy might be difficult for a foreign buyer as the Italian tax and real estate law can be complex. Moreover, the foreign buyer, or his representative, must be fluent in Italian in order to go into every single detail of the purchase.

A foreign buyer should seek the assistance of an Italian lawyer at an early stage, potentially prior to signing any agreement or paying a deposit, given the legal, economical and practical obstacles involved in acquiring a house in Italy.

A real estate lawyer in Italy is highly recommended, as you need someone whose main job is to represent your interests.

You may get help in finding a property in Italy by a Real Estate Agent, but keep well in mind that the Agent's main target is the sale.

Therefore, **he will not be legally responsible** if he will not check the compliance of the house with the original permission issued by the council, **unless he has been conferred a specific assignment.**

It is a fact that several foreign buyers turn to an Italian Real Estate Property Solicitor **only after signing any agreement and paying any deposit to the agent.**

This strategy frequently becomes an issue, as it can be extremely difficult at this stage to renegotiate or amend general terms and conditions of the purchase in accordance with the buyer's genuine wishes.

In some cases, because of severe building abuses, the buyer will find out, only after signing an agreement, that the property cannot be legally transferred.

When the purchase goes through an Italian Real Estate Agent, a foreign buyer is usually asked to sign a standard agency contract.

This contract should be thoroughly studied before signing, as it will bound to a commission and fix the date of the payment.

WHAT TO DO BEFORE SIGNING ANY CONTRACT.

Find the right professional: solicitor + surveyor/architect/ingenieur.

After finding your dream property for sale, you will have to take the following steps, under the supervision of the solicitor and the architect.

If you are buying a house from a private or, in general, a house that has been already built the assistance of a technical surveyor (geometra), an architect or a civil ingenieur is highly recommended.

This professional will provide a check of the property determining whether it complies with the building regulations at the time of construction and will examine all the documents of the land register. The professional will also ask the seller to provide the **Energy Performance Certificate (APE).**

At the same time, the solicitor will check if the house is fully owned by the vendor and if the property is burdened with mortgages or with other third parties rights (foreclosure

proceedings). If the property is already mortgaged, the solicitor will check that the existing mortgage has been paid off.

In this case, the cancellation will be at vendor's cost prior to the final acquisition.

Only if the property is fully compliant to the original building permission, and it is owned by the vendor and it's free from third parties rights, it will be possible to sign a preliminary contract.

It is crucial to underline that if a reservation agreement or a preliminary contract is signed prior to doing all necessary searches and acquiring all relevant documents, the buyer may encounter unexpected issues **at a later stage, when it may be too late.**

Indeed, even if the contract contains terms addressing these difficulties, **the seller may be unable to resolve them correctly and to refund the deposit.**

If no contract has been signed or a deposit paid, the buyer will have a far stronger bargaining position if there are issues with the property, At this point, the prospective purchaser may renegotiate or withdraw from the intended arrangement.

The **preliminary sales agreement** is a legally binding contract and it has to be registered at Agenzia delle Entrate within 30 days from date of signing. It obligates the perspective purchaser and the seller to the transfer of ownership with the remaining balance of the agreed-upon amount paid at a later date when the final deed (rogito) will be signed in presence of the notary public.

Ask for Italian tax code number and open your bank account.

In order to sign a preliminary contract you will need a unique taxpayer reference (codice fiscale), which you can get from an Italian tax office (Agenzia delle Entrate).

Then, it will be necessary to open an Italian bank account, operation which requires your personal presence in Italy.

If you are unable to be in Italy to open your bank account and to fulfill all following duties, you may grant a special power of Attorney to your solicitor in order to represent you for all operations.

A Power of Attorney (procura notarile) is a deed signed in a notary public office in which one person (the Principal) authorizes another person (the solicitor), to act on his or her behalf by granting specific rights, such as opening or managing a bank account, selling or purchasing Real Estate, or any other operation regarding the purchase of the Italian property.

Sign the preliminary contract and provide the notary public of all documents required for the final deed (rogito).

After signing the preliminary contract, you will have to provide the notary public of all documents required for the final deed.

If your solicitor and technical surveyor did a good job, the final deed will be only a formality.

You will transfer the balance on your Italian bank account and ask the bank to issue a cashier's check (assegno circolare) in order to complete the payment.

In case you decide not to proceed with the purchase without any good reason, the seller either will keep the deposit as a refund for damage, or in alternative, may take legal action to compel the purchase.

If, on the other hand, the seller cancels the transaction without a good reason, he is bound to refund you twice the amount of the deposit.

About the costs.

Real Estate Agent provision is around 3% of the purchase price and it is paid by both the buyer and the seller. Before entrusting a Real Estate Agent, it is always a good idea to inquire about the firm's terms and conditions.

Notary fees differs according to sale price and to notary firms. It's common to ask for a quote.

The **registration tax** for residents is 2% of the declared cadastral value*, or 9% of the declared cadastral value in the case of non-residents.

A fixed mortgage tax (50 euro) and a fixed cadastral tax (50 euro) also applies.

The declared cadastral* value in the deed represents the basis of assessment of the registration tax and may be **lower than the market value** of the property.

The rule of cadastral value* does not apply to all transactions; in fact, if the buyer is a company the basis of tax assessment will be calculated according to the commercial value of the property.

The solicitor fee is calculated on basis of value of purchase, following italian professional law (D.M. 55/2014) and it's common to sign an agreement with the solicitor in order to be sure about the exact amount of the fee.
