

## **Bankruptcy and debt enforcement in UK & Spain**

**By Rob Westwater**  
**- an English Lawyer with De Cotta McKenna y Santafé**

A number of people now in Spain move away from the UK leaving debts there. Some people will have taken advice about how this may affect them and whether their creditors can pursue them in Spain. If there has been a declaration of bankruptcy in the UK the Trustee in bankruptcy will normally be able to make a claim against Spanish property. There are provisions in the Insolvency Act to allow the trustee to seek orders over assets abroad.

Unfortunately many people think that a declaration of bankruptcy will mean that their creditors do not pursue them for their debts. However the debts do not “go away” and the bankrupt is restricted in things such as commencing new businesses and taking up directorships. Another possible course of action in English law is applying for an IVA or Individual Voluntary Arrangement. This is an arrangement entered into for payments to creditors and is supervised by an Insolvency practitioner. Provided this is successful it can prevent the debtor from losing their home and or their business. Specialist advice can be sought from insolvency practitioners.

Whether you have been running a business in the UK or you have debts with credit card providers and banks there is a lot of advice and help available. Sometimes independent legal and or accounting advice can help to focus on those debts that can be negotiated and the worst possible solution is to ignore the letters from creditors. If you have moved to Spain and are concerned about whether creditors can pursue you and seek enforcement of debts against Spanish property a consultation with a lawyer would be advisable. Very often it is best to seek advice when you arrive in Spain if you are concerned about debts you have left in the UK.

With the boot on the other foot it is also important to know what you can do to recover debts owed to you either by private individuals or by businesses. If you are owed money and you can prove the debt then you can seek enforcement of the debt through the courts whether the debtor is in the UK or Spain. Documentary evidence of the debt will be important and lawyers will normally wish to carry out a property search against the debtor to see how any successful judgement can be enforced. The procedure within the EC is now much more effective and faster in dealing with service of documents and the enforcement of orders from different European countries and in this respect the distance between Spain and the UK is getting shorter.

*If you wish more information on this particular topic or would like to discuss any matter raised therein, contact Rob Westwater, De Cotta McKenna y Santafe, on 958 788 403. Offices in Mijas Costa, Coín, Nerja, Granada and Tenerife.*

**De Cotta McKenna y Santafé**  
**Granada Office:**  
**Edificio Mapfre**  
**Calle Cristóbal Colón, no.4**

**2ª Planta  
Oficina 4  
Talará-Lecrin  
18656 Granada**

**Tel: +34 958 788 403**

email: [robwestwater@decottalaw.net](mailto:robwestwater@decottalaw.net)

website: [granada@decottalaw.net](mailto:granada@decottalaw.net)