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English Lawyers and Spanish Abogados

Enforcement of a UK debt against Spanish assets

by Sandra Wrightson, Overseas Barrister & Lawyer at De Cotta McKenna y Santafé

The property boom in Spain may be over but during the last 10 years a large number of people from Britain purchased apartments, villas and commercial properties in Spain. Now that the credit crunch is upon us a number of UK lawyers need to help their clients recovering debts and the only asset may be a Spanish rather than a British property. We generally recommend an immediate property search and company search in Spain and advice to the client on the future course of action depending on the results.

Where there is a Spanish property the client in the UK can then obtain the Court Certificate needed for enforcement of the debt abroad in an EU country. In all Spanish judicial proceedings it is necessary to obtain a Power of Attorney on behalf of the client and this formality needs to be dealt with promptly to avoid any delay that can prejudice the claim. Once these initial steps have been taken the Spanish lawyer can present the Spanish petition and request an embargo of the Spanish property to protect the creditors interest.

Recently Spanish courts and Land registries have been responding more quickly to such claims and in one criminal case this firm has recently handled, the Land registry immediately sought to annul a property transfer made by an English person to avoid a claim for criminal compensation. In general however the speed of a civil claim can vary with the local court. If the debt is not settled the request for enforcement by auction of the property will be the next step. Official publication of the auction has to be arranged and paid for by the claimant.

A request can also be made for the court to seize or embargo other assets such as cars or boats where there is evidence of ownership. There is protection for those assets required for work or business purposes.

Initial advice on property in Spain and on enforcement procedures is essential. For example it may be necessary to deal with jointly owned property which is similar to dealing with a tenancy in common in England.

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