

Separation of assets or community of property on divorce

Many English people will remember signing the deeds, (escritura), of their property at the Notary. Spanish Notaries are officials of the state and have extensive experience and knowledge.

Sometimes they ask a couple about their “matrimonial regime” and this can cause confusion with English and British nationals who are not aware of the concept.

This is because it is a civil law concept familiar to the rest of Europe but not applied in English common law or matrimonial law. In Spain the couple can elect to hold their assets separately or as “gananciales”, Community of Property. The default or

common regime is gananciales.

For example, a husband or wife may have a property purchased after marriage but registered in their own personal name rather than jointly. Where this property is the matrimonial home and the marriage has been a long one, the English Court would take it into consideration when talking about a division of assets. This brings the English regime on divorce closer to that of Community of Property or gananciales where assets acquired during marriage are divided 50/50,

Similarly a pre-nuptial contract, generally signed before a Notary, is considered as binding in Spain. In English law it is one of the factors taken into account on divorce but can be overturned depending on the individual circumstances.

For these reasons it is important to seek advice on assets and property in a divorce.

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De Cotta McKenna & Santafé appoints new partner

De Cotta McKenna & Santafé (DMS), the firm of English Lawyers and Spanish Abogados, has appointed Jon Sutton, English solicitor and head of the Coín office, an equity partner. Jon has been with DMS since March 2005 and is the firm's pre-eminent expert on Spanish wills, inheritance and probate. His skills are particularly useful in dealing with Spanish estates of UK nationals and the conflicts of law of estates across the two jurisdictions of Spain and the UK.



The appointment brings the number of partners at DMS to five, with specialisms that encompass international, criminal and commercial law; civil litigation and personal injury; property, land and conveyancing; tax and employment advice as well as wills, probate and family Law. Jon Sutton is available for consultations across Granada and eastern Malaga Provinces and the DMS network of offices in Southern Spain and the Canary Islands.



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