

PROPERTY PURCHASE

A contract of sale, also known as 'purchase agreement' needs to be drawn up as soon as the property's seller and its prospective buyer have reached agreement. The notary accesses the land registry records to perform a title search before drawing up the contract of sale, to check who is the property's current owner and to see whether ownership of the property comes with particular charges and/or restrictions (such as easements). The contract of sale sets out the transaction particulars agreed between the seller and the buyer such as the purchase price, the closing date and - typically - the condition subsequent of adequate finance being secured by the buyer. Reference is also made in the context of the contract of sale (usually in a separate list for attachment to the contract) to any moveable items of property (such as curtains or particular pieces of furniture) included in the transaction. A meeting is scheduled at the notary's office at which the contract of sale is discussed with and signed by the seller and the buyer, with the latter having a further three days under the buyer's remorse regime during which he or she may still reverse the transaction.

HAND OVER AND TRANSFER OF (TITLE TO) PROPERTY

Now that the contract of sale has been signed, the next step is for the property to transfer from the seller to the buyer on the contractually agreed date. It is customary for the parties on the closing date to visit the property for a final viewing (on which occasion both sides should take down the meter readings for electricity/gas and water). The notary will perform a variety of notarial and land registry checks while the seller and buyer are giving the property a final once-over prior to reassembling at the notary's office, to check (once more) whether the property is mortgaged and if so, for what amount(s) (the notary will provide for the discharge of any such mortgages once transfer of title has taken place), and make sure that the seller still owns the property. If everything is as it should be and the price to be paid for the property has been transferred to the notary's escrow account (usually by the buyer's mortgage lender), the notary will take the parties through the closing instrument and elaborate where appropriate. The closing instrument is signed as soon as the two sides have confirmed their agreement, and is formalised by the notary's signature. It is at this point in time that the seller usually presents the buyer with the keys to the property, as a symbolic way of rounding off the property's physical transfer. The notary files a (digital) copy of the closing instrument with the land registry agency, and will send a title deed (proof of ownership) to the property's new owner as soon as the entry in the public records has been confirmed.

STATEMENT OF COMPLETION

About one week ahead of the transfer date the notary will send (draft) statements of completion (invoices) each to the seller and the buyer in which elements such as the purchase price, stamp duty (transfer tax) and mortgage loan are broken down and various charges and fees are accounted for such as the estate agent's fee and the notarial fees and land registry charges. As the various property-related charges such as municipal property tax, district water board charges, municipal sewerage charges and - where appropriate - the residents' association charges are customarily set off between the seller and the buyer in the context of the notarial statement of completion, this ensures that both the seller and the buyer should start with a clean slate as soon as the property's transfer has been completed.

INSURANCE

As the risk associated with the property transfers from the seller to the buyer when the closing instrument is signed, this makes it relevant for the new owner to take out building insurance with effect from the transfer date (any mortgage lender would in fact insist upon adequate building insurance being in place). Information concerning building insurance and household contents insurance is readily available from insurance companies and intermediaries. Building insurance for apartments is customarily provided for at residents' association level for the apartment complex as a whole, so that the apartment owners are automatically insured where the structure is concerned (with the proviso that every apartment owner should still take out homeowners' insurance for him or herself).

APARTMENT RIGHT

Although the mechanism of purchasing and collecting title to an apartment right (\approx commonhold) is essentially the same as that for a whole house, certain differences exist between the two types of property, one of which is that the buyer of an apartment right automatically joins the residents' association (association of homeowners) for the building in question. All co-owners of the building are bound by the regulations set out in the deed of property division, which deal with matters such as the respective contributions to be made to the shared maintenance charges (outside paintwork, roofing work, et cetera) and the building insurance. Some residents' associations operate an additional set of standing orders providing for practical arrangements between the co-owners.

The notary advises the residents' association of the sale of the apartment and the board of the residents' association responds by notifying the notary as to whether the current apartment owner still owes the association any money, as well as communicating the level of the sink fund. The latter is a shared reserve registered in the residents' association's name, for deployment whenever maintenance to the (communal portions of the) apartment building is required to be carried out. No sink fund set-off takes place between the seller and the buyer. Some residents' associations engage an external building manager charged with keeping the association's accounts. Building managers may charge an entry fee to the buyer and/or an exit fee to the seller; such charges are typically taken care of in the context of the notarial statement of completion.

LONG TERM LAND LEASE

Much of the land on which Amsterdam properties have been erected is owned by the municipality, which moreover can also be the owner of the actual building. This scenario involves the "homeowner" acquiring a leasehold right (rather than outright ownership) granting him or her the right to use the building (or the apartment forming part of the larger building), with the municipality charging the leaseholder ground rent by way of compensation for the use of its land (and/or property). Ground rent invoices are typically raised in (six-monthly) instalments unless a lump-sum prepayment has been made for a particular period of time. The contract of sale for the property will contain the relevant information.

MORTGAGE

More often than not the purchase of a property is funded using a mortgage loan. "Mortgage" is a dual concept, in that it comprises the home loan on the one hand and the security right on the other. The loan is used to fund the purchase. In order to ensure the buyer's performance of the loan agreement, the mortgage lender collects a right of mortgage authorising it to cause the property to be sold under foreclosure ("auctioned off") in the event of non-performance (such as failure to pay the interest and redemption) on the part of the buyer. A mortgage comes with a range of provisos, such as those banning the owner from letting (renting out) or renovating the property without the mortgage lender's prior consent. The notary will discuss the main mortgage clauses with the buyer when the mortgage instrument is signed, which is typically done in the immediate wake of the closing instrument having been executed.

TITLE DEED

The notary will provide for entry in the land registry records of the closing and mortgage instruments as soon as these have been signed, and will forward certified copies of the closing instrument (title deed) and mortgage instrument to the buyer.

IN CONCLUSION

We have made every effort to provide you with a straightforward explanation of the mechanism of buying a house or apartment, in the context of which we have deliberately focused on the main outlines rather than addressing each of the many details involved in a property transaction. Of course we will be delighted to provide you with a more detailed explanation and welcome you at our offices when it is time for you to sign.