

REAL ESTATE TRANSFER PROCEDURE

Introduction

The previous article, *Real Estate Acquisition*, tackled the two essential questions, namely (I) what qualifications foreign real and legal persons must have in order to acquire real estate in Türkiye, and (II) to what extent real properties are allowed to be acquired by foreign real and legal persons.

The article particularly covers the title transfers where the buyer is a foreign individual or a foreign-invested Turkish company.

Title Transfers to Foreign Individual Buyers

The prospective seller and the buyer are required to file an application through an online system called Webtapu to obtain approval prior to the actual title transfer. Basically, it is an evaluation of the buyer and the real estate by administrative authorities that determines whether the buyer qualifies for the acquisition and the real estate is eligible for the transfer.

The application file should include a number of documents to be provided both by the seller and the buyer. In accordance with the new regulation published on January 21, 2022, foreigners are obliged to sell the sale amount to Central Bank through a Bank and receive a document called Foreign Exchange Sale Certificate. This document has to be provided to the Land Registry Office to start the sales procedure.

The title deed is issued by the Land Registry Office based on the value of the Turkish Lira stated in the Foreign Exchange Sale Certificate.

In cases where the parties are represented by agents such as realtors, lawyers, company staff, or other third persons, the agent has to submit a Power of Attorney drawn up and attested in the form required by law.

Title Transfers to Foreign-invested Turkish Companies

Where the buyer is a Turkish company in which foreign investors hold not less than 50% of the outstanding shares or have the power to appoint or remove the majority of persons in the management body, the initial application will be made to the concerning governorate by the buyer alone.

Upon filing of the application, the governorate corresponds with the concerning army commandership to ascertain whether the location of the real estate in question falls within a military forbidden zone, military security zone, or a strategic zone. Such correspondence is simultaneously carried out between the governorate and the provincial police or gendarmerie department to determine whether the real estate falls within a special security zone.

Once the clearances have been obtained from the abovementioned authorities, the governorate notifies the company and the land registry office of its approval for the transfer. The approval is valid for 6 months. Hence, the seller and the buyer must apply to the land registry for the execution of the title transfer within 6 months following the receipt of approval; otherwise, the approval will be null and void.

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Final Stage: Actual Title Transfer

After the officer’s examination on the file and if he/she confirms that the transfer may be made, the parties are notified via SMS of the date and time of the appointment, the amount of transfer tax, and the service fee that needs to be paid to proceed to the title transfer.

The parties or their representatives must be present at the land registry office for execution of the transaction. The land registry officer in charge draws up the transfer deed in the official form required by law.

If the foreign party does not speak Turkish, a certified translator must also be present to verbally translate the content of the deed. The parties are then asked whether the terms of the deed are in accordance with their will. If both responses are in the affirmative, the buyer and the seller can put their signatures on the transfer deed. After completion of

the transaction, the title deed is drawn up in the name of the new owner.

Taxes and Fees

Transfer Tax

Parties are required to pay transfer tax at a rate of 4 percent of the sale value.

The transfer tax is paid to the concerning tax office. In principle, the seller and the buyer are required to share the tax burden equally. In practice, however, the buyer usually bears the entire burden.

Service Fee

The service fee is paid to the land registry office in return for the execution of transaction and registration services.

Parties can negotiate on who will pay the service fee. However, in practice, the fee is usually paid by the buyer.

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