

MOZAMBIQUE BUYER'S GUIDE

1. Property Purchase - Residents and Non-Residents

Buying a property in Mozambique is not difficult, but it has its requirements for both nationals and foreigners, whether as an individual or collective (company).

There are no restrictions on residents owning property.

There are procedures and requirements that must be met in certain circumstances, such as the local registration of entities registered outside Mozambique and wishing to acquire a property in the name of the company, as well as the possibility of setting up a company in Mozambique and acquiring the property in the name of the company.

If a non-resident acquires real estate in the country with the intention of residing there for longer periods, a residence permit must be applied for in accordance with the applicable requirements.

Please note that ownership of a fixed property does not automatically entitle you to any kind of residence permit. To apply for full-time residence, for work purposes, you must first have a Mozambican legal entity (a company) request permission for a business visa for you, then you can return to the country on that business visa and apply for a long-term work permit and work visa status. You can also apply on behalf of dependents at the same time.

2. Transfer procedure

The registration of a property transaction is carried out by a lawyer, who can be defined as a conveyancing agent.

As required, both parties need to have their own lawyers to process the documents necessary for them to complete the sale and purchase agreement. In certain cases, the parties agree to appoint one lawyer and split the fees. It is very prudent for buyer's lawyer to carry out due diligence in order to confirm the validity of the documents to be presented.

The lawyer will prepare the necessary transfer documentation which, after the signatures of the buyer and seller and the receipt of various authorizations required by government bodies, is filed (along with the cancellation of any existing mortgage bonds and new mortgage bonds to be registered) at a Real Estate Registration Centre (Conservatória de Registo Predial).

The deeds go through a rigorous examination process and are then made available for registration. On the date the transfer is registered, the registrar reads the contract of sale, confirms the presence of the signatories and the payment of the necessary fees (SISA).

In the process of buying property, it is important to have the assistance of a lawyer to ensure, for example, that the debts inherent in the property are not transferred to the new owner.

2.1. Non-transferability of Property - Nationalized Property

Non-residents have not been allowed to buy property nationalized by the Mozambican state since 1976.

The non-transferability of property to foreign citizens applies to property that has been nationalized by the Mozambican state after Independence, and is based on the following legislation:

- Decree-Law No. 5/76 of 5 February, regulating the nationalization of buildings.
- Law no. 5/91, of 9 January, which regulates the construction, sale and transfer of real estate.
- Ministerial Diploma no. 50/94, of 13 April, regulating the sale of residential property.
- Decree No. 2/91 of 16 January, regulating procedures for the sale of properties to tenants.

As can be seen from the preamble to Decree no. 2/91 of 16 January ("Decree no. 2/91"), at the beginning of the 1990s the total or partial acquisition of state property by tenants occupying it was permitted. However, only national tenants were covered by this provision (Law 5/91, Article 2.º, n.º 1). Foreigners paying rent on properties nationalized by the state could not acquire them. For these purposes, legal persons or companies in which the majority of the capital or shareholders are foreigners are also considered foreigners (DL 5/76, artigo 4.º, n.º 2), i.e. in the case of companies, which have both foreign and national shareholders, in order for the company to buy properties that have gone through the nationalization and then privatization process, the majority of the share capital must belong to Mozambican citizens (DL 5/76, artigo 4.º, n.º 2).

National tenants who have bought property cannot sell it to foreigners in the future (Decree 2/91, Article 16).

Under the terms of Ministerial Diploma no. 152/92, of 30 September (the "DM no. 152/92"), which regulates the operating regime for the process of valuation and disposal of state property to the respective tenants, a document proving the tenant's nationality is required for the disposal application process (DM no. 152/92, no. 4.2, point d). The same statute also defines that only national tenants benefit from the process of selling state property (Ibid, no. 4.3).

The prohibition on selling property to foreigners also applies to properties in ruins, unfinished or in a state of disrepair. Ministerial Diploma No. 97/92 of 8 July (the "DM No. 97/92") establishes that both the sale and future transfers of these properties can only be made in favour of national citizens and companies (DM No. 97/92, Article 1, paragraphs 1, 2 and 3).

Thus, foreigners can only buy property in Mozambique that has never been nationalized by the state.

3. Costs

The costs of buying a property vary, from the due diligence that must be carried out by the buyer's lawyer, the legalization and updating of documents relating to the property that must be handed over by the seller, the payment of fees for legalizing documents, as well as the payment of the latest IPRA (the seller's responsibility), the payment of the SISA (the buyer's responsibility) and the Public Deed in which the purchase and sale contract is registered at the Land Registry Office, which will serve as proof of ownership of the property right over a given property - the fee to be paid is calculated by the relevant department.

3.1. Brokerage Fees

Brokerage is paid to the real estate agent who is responsible for the successful completion of a property sale. Brokerage is usually paid for by the seller, who sends the real estate agent to find a buyer for the property. However, if the parties agree that the buyer settles the sales agent's commission, there will be certain tax implications relating to transfer tax.

The seller is usually also responsible for the cost of acquiring up-to-date certificates, IPRA (Municipal Property Tax), municipal taxes, electricity and water.

If the seller's property is mortgaged, the seller is responsible for the costs related to the cancellation/settlement of the existing mortgage on the property.

3.2. Costs for the Buyer

The buyer is responsible for paying the costs of the SISA, which is levied at a rate of 2% on the purchase price of the property, but if, after an inspection by the competent authority, it is found that the property is worth more than the purchase price, the SISA will be calculated at the higher value.

Public Deed Fee - calculated by the competent authority, the fee varies according to the value of the property purchased.

Change of title.

4. Signing Documents

In order for the parties to sign the property purchase documents, a seller must attach and prepare the following documents:

No.	INDIVIDUAL/PRIVATE SELLER	COLLECTIVE SELLER/COMPANY
1.	Updated Land/Property Certificate	Minutes to resolve on the sale of the property to be signed by all shareholders.
2.	Payment of IPRA (Municipal Property Tax) for the current year of purchase	Up-to-date Commercial Certificate
3.	Last SISA payment	Identification of the company's legal representative
4.	Identification (valid ID) of Owner and Agent (if any)	Updated Land/Property Certificate
5.	Matrix Certificate	Updated Matrix Certificate
6.	NUIT	Payment of IPRA (Municipal Property Tax) for the current year of purchase
7.	Municipal Personal Tax	Last SISA payment
8.	Bank details	NUIT of the company and partners
9.	If it is an inherited property, the owner's death certificate must be attached, the heirs' authorization and all the heirs must agree to the sale of the property.	Bank details.
10.	The owner of the property is obliged by law to have an electricity contract, certifying that the electrical installation on the property meets certain legal safety requirements and guaranteeing the delivery of the last statement with the bill paid in full.	Payment of the economic activity tax.
11.	You must also present the Water Installation contract and the statement with the bill paid in full.	

4.1. Sale of a functioning Lodge with a Tourism License

In addition to the requirements for purchasing a company as per the table above, tour companies also require the following documents to be checked and amended where necessary.

NO.	OFFICE	DOCUMENTATION
1.	MUNICIPALITY	Property Title
		Certificate
		Building Licenses
		Payment of property tax for 2021, 2022 and 2023
		2023 Tax on economic activity
2.	ENVIRONMENTAL	Approval of the environmental impact study
		Environmental licence
		Fire extinguishers
3.	TOURISM	Licence
		Price list
		Manager's Certificate
		Complaints book
		Guest register
4.	MARITIME	Special leave
		Payment of 2023 land tax
5.	FINANCE	Invoice and receipt books
		3 VAT payments from the last few months
		Model 01
		Company NUIT
6.	WORK	Labour contracts
		Work visa
		Annual holiday programme
		Maturity books
		Last 3 months of INSS payments
		Insurance against accidents at work and occupational diseases
		Holiday map Nominal ratio
7.	HEALTH	Water analysis report
		Health cards
8.	MIGRATION	3 Movement forms for the last few months
		Work visa
9.	MINERALS & ENERGY	EDM licence
		Generator licence

Note: If the Seller has granted powers to any partner by means of an irrevocable power of attorney, he must revoke it and issue a new power of attorney in favour of the Buyer.

4.2 Buyer's documents required;

NO.	INDIVIDUAL/PRIVATE BUYER	COLLECTIVE BUYER(COMPANY)
1.	Identification (valid ID or DIRE)	Minutes to decide on the purchase of the property to be signed by all shareholders.
2.	NUIT	Up-to-date commercial certificate
3.	Payment of municipal personal tax	Identification of the company's legal representative
4.		NUIT of the company and partners
5.		Payment of partners' personal municipal tax

Once all the documentation has been checked and all the parties (buyer and seller) have agreed, a promissory contract of sale is signed for the property, for which an advance payment is made (part of the down payment, if agreed) and the term and number of instalments for the payment of the remaining amount are agreed in the same contract. This contract must be signed by the parties and recognized in the presence of the Notary and registered in the property certificate by means of a public deed to ensure that the property is protected against third parties. Once the instalments have been completed, the parties sign the Purchase and Sale Contract again in the presence of the Notary, enclosing the payment of the SISA (required at the Town Hall of the property's jurisdiction) relating to this purchase and the payment of the IPRA (Municipal Property Tax) so that the purchase and sale is registered by public deed.

If the buyer wishes to make a cash payment, they can proceed to sign the Purchase and Sale Agreement for the property, complying with all the legalization requirements.

9. The Sale Agreement

A sale will begin with an "Offer to Purchase", if accepted, the parties will enter into a "Promissory Contract", under which an advance payment is made, this is not obligatory, but serves as a gesture of good faith from the buyer, as well as a guarantee for the seller. Upon receipt of an advance payment, the Sales Contract will be drawn up by the legal representatives of both parties, signed and notarized, and the balance amounts paid.

10. Taxes / Duties Applicable to Sales:

No.	SELLER	BUYER
	Update the Property Certificate;	SISA - 2% of the property's purchase price, but if the property is found to be worth more than the purchase price after an inspection by the competent authority, the SISA will be calculated at the higher value.
	IPRA - annual instalments up to date	Public Deed Fee - calculated by the competent authority. The fee varies according to the value of the sale price agreed.
	Brokerage fees to the Real Estate Agent	Land certificate - fee to change name.
	If it's a company and there are employees, employee contracts need to be paid - one month's salary for each year of service for unskilled labour is customary (labour laws apply to higher paid employees).	In the case of a company, the extraordinary resolution needs to be registered and then the property registered in the Diário Oficial da União (BR) - a fee based on the number of lines of text in the document.