

Helpful Legal Tips for Real Estate Ownership in Costa Rica

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When a person acquires property in Costa Rica, he or she usually performs due diligence through different advisors such as lawyers, engineers, surveyors or a home inspector. The goal is to discover the existence of possible problems related to the plot map, the title, the adjacent properties or the house itself. However, problems can always arise despite this due diligence and the possibility of ending up in Court is always present. Below is a couple of tools that can be of helpful for certain situations if they may arise.

The first is called MEDIANERIA which is regulated on articles 386- 394 of the Civil Code. This figure establishes that the wall that serves as a division between houses, buildings, courtyards or gardens is presumed to belong equally to the owners of both properties. This confers rights and obligations equally. It confers rights because either of the owners can use the wall for their own purposes -respecting construction and zoning regulations; and obligations because both owners are obliged to pay maintenance or repairs equally.

However, if one of the owners has a way of demonstrating that only he or she built the dividing wall, then there is no MEDIANERIA; being able to force the other neighbor to build his own wall or prevent him from benefiting from it in any way. MEDIANERIA can

even be established by agreement between both neighbors, and if they wish they can go before a Notary to grant a document in order to have it recorded on both properties and that is so registered for the future.

In a recent case the owner of a lot A built a wall of very good quality, but due to an error made by the construction company, the wall was partially inside lot B of the neighbor. For this reason the owner of lot B filed a lawsuit asking to destroy the wall. As a way of solving the conflict, the owner of lot A offered a MEDIANERIA agreement, according to which half of that wall also belonged to lot B. This was accepted considering the excellent quality of the wall, and the agreement was recorded on both properties.

The second tool is called EVICTION GUARANTEE and it is regulated by article 1034 of the Civil Code. It indicates that the Seller of a Real Estate property or right must guarantee the Buyer the free exercise of any property rights. This means that if after the sale, conflicts or claims arise from third parties in relation to the property, the Buyer may require the Seller to help and defend Buyer's rights in Court. Important to indicate that the conflict must be related to events prior to the date of sale.

The way to apply the Eviction Guarantee is that the Buyer can request the Judge in charge of the process to proceed requiring the Seller to appear into the process and proceed fulfilling this obligation to assist and defend the Buyer. This is established in article 22.5 of the Code of Civil Procedures. If the Seller does not fulfill this obligation, or even despite of fulfilling it the Buyer loses the litigation or the property, the Seller can be condemned to pay Buyer any caused damages.

Property conflicts are more common than anyone would think. They happen for many different reasons. There are many ways to try to resolve conflicts, for which it is important to have a qualified professional who understands the process. Here we have mentioned a couple of legal tools that can be helpful in resolving a conflicts that involves lots, farms, houses and buildings, among others.

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