



Peace of Mind

Solicitor MICHAEL BULA explains how to avoid horror stories when purchasing property in France, with the right support from an international lawyer.

Do not be convinced that simply by engaging a French *notaire* (even an English-speaking one for that matter) will be adequate to handle the French–Australian international legal issues in a French property purchase transaction. It is essential that the Australian legal interface be ever-present in all decisions made during the entire process, which can only be achieved by an international lawyer in Australia working with the *notaire*.

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Issues to keep in mind

Here are just a few non-exhaustive matters to consider in order to avoid acquisitions coming unstuck, sometimes even years after settlement, without the assistance of international lawyers like MBS.

Does your international lawyer:

- speak and correspond in legal French with all professionals who intervene in property dealings, and have decades of experience in this field?
- assure full project management of the transaction?
- provide accurate confidential explanation, advice and interpretation in English and French translations of all deeds to clients?
- use clear and transparent communication in specialised legal French with the *notaire* to ensure all matters are resolved? While the *notaire* may speak English, this does not mean he/she appreciates the Australian legal position or has a high level of comprehension of English legal jargon.
- provide notarisation of French deeds and powers of attorney (*procurations*), where translation costs can be saved when documents are interpreted orally to English and a notarial certificate in French is drawn to this effect, which is acceptable to the *notaire*?
- have an extensive private network of *notaires* and *avocats* knowledgeable in the Australia–France legal relationship, therefore saving time, misunderstanding, cost and avoiding the wrong purchase methodology?
- offer peace of mind, support and counselling during the whole transaction from preliminaries to start and beyond settlement?

- interface, where the *notaire* has no understanding of Australian law or legal systems, to cover:
 - joint tenancies and survivorship
 - matrimonial regime changes
 - French–Australian conflicts of laws for succession and deceased estates
 - divorce and previous marriages
 - conflict of laws and private international law matters between France and Australia which can impact on the transaction
 - company (type, French or Australian, etc.) or individual purchase
 - syndicates and corporate vehicles – shareholder agreements
 - trusts and superannuation acquisitions issues and processes
 - European succession regulation
 - Australian international wills
 - tax matters with the appointment of English-speaking accountants and liaison with Australian accountants to ensure French, Australian and international tax compliance
 - negotiations on price and contract terms with vendors, agents and *notaires*.

All matters covered in this article are of a general nature. Specific advice tailored to your personal circumstances should be sought. ♣

SOME HANDY TIPS

It is recommended having separate notaries for each party. Even though notaries in France often act for both parties, foreign clients come from legal systems unfamiliar to the French notary. It makes sense because in France purchasers pay the legal and government fees and with two notaries they split the costs, so you have two for the price of one.

Many problems occur well after settlement because the notary acting for one party was not aware of a number of extraneous and international legal issues specific to Australian clients. An international law firm like MBS can appoint a notary in France to represent clients’ uniquely Australian interests from its extensive network throughout the country.

The methodology of the purchase of the property in personal names, trusts, self-managed superannuation funds, syndicates or company structures is critical for prior discussion.

No documents whatsoever should be signed or acknowledged without full international legal advice beforehand.



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