

## Practical Legal Guide for Greek Australians

# TOP 10 LEGAL ISSUES

### 1. Ktimatologio Land Registrations

This newly established institution calls for immediate submission of the land Titles and topographic diagrams for those owning property to places in Greece proclaimed under registration.

Make sure that you have perfected your Title, procured its Certificate of Registration from the Land Registry (Ypothikifylakeion) and declared it promptly; in any case, confirm that your property has been registered under your name. If not, you should immediately seek judicial remedies, otherwise you jeopardize its ownership.

### 2. Inheritances & Estates

If land in Greece is inherited, either through an Australian or Greek will, or without a will, the heir should proceed with officially "accepting" the inherited land, through a Public Notary's Deed, which must be recorded in the competent Land Registry in Greece, bringing thus title under his/her name. An inheritance Tax Statement must also be filled. The Greek Estate has to be probated in the Athens Court of First Instance.

All the above procedures can be implemented through a Limited Power of Attorney, without your presence in Greece being necessary.

### 3. Buying and Selling property in Greece

#### A. When buying, one should:

- have a title investigation in the competent Greek Land Registry effected, through an experienced Greek lawyer in order to ensure flawless legal title;
- apply for acquisition permits, if the property is characterized as "a border area" in Greece;
- take care of relevant currency and taxation procedures;
- confirm through impartial Greek appraisers the property's fair/true value;
- negotiate terms of sale; and
- arrange for the execution of the sale Deed and its proper registration with the competent Land Registry in Greece.

#### B. When selling, one should:

- confirm through impartial Greek appraisers the property's fair/true market value;
- properly market the property in order to maximize the prospected proceeds;
- negotiate terms of sale and secure maximum protection, when there is Bank financing;
- procure all tax and municipal tax clearances; and
- take care of the execution of the sale Deed and wire transfer of the sale proceeds to the designated foreign or Greek bank account.

All the above procedures can be implemented through a Limited Power of Attorney, without your presence in Greece being necessary.

### 4. Greek Parental Gifts (Goniki Parohi)

Greek Law regulates Parental Gifts favorably in terms of tax treatment. When there is real estate property involved, the conveyance is implemented through the execution of a Notarial Deed by both parties (parents and children) and its subsequent registration in the archives of the competent Land Registry of the property's location. The property may be gifted in full title (pliris kyriotis), or by the parent withholding the life es-

tate (epikarpia). Taxwise, the first 95.000€ in tax value of the property is tax exempted, while any further value is taxed by 1%. With the engagement of the proper legal and tax vehicles, the child acquires full ownership of the gifted property at the parents passing, without any further Probate or Taxation obligation whatsoever at that time.

### 5. Wills (Australian and Greek) for property in Greece

An Australian will may regulate the Greek property owned by the testator. In any case, a separate Greek will may be executed in the absence, or to the supplement, of an Australian will.

An Australian will, after it has been probated by the Australian Courts, must be registered at the Athens Court of First Instance, together with all relevant documents (certificate of death, etc).

Children, parents and the spouse cannot be excluded completely from their inheritance rights in Greece by virtue of a will, except for extreme reasons. This is called a "forced share" right (nomimi moira).

If a will is not executed for the Greek property (intestate succession), Greek Law arranges the line of succession/inheritance, as follows:

- Spouse and children
- Spouse, parents and brothers /sisters
- Spouse, grandparents, their children and grandchildren
- Spouse and great grand-parents
- Spouse
- The State

Since the will may burden the heirs and/or the Estate with substantial tax and legal obligations, it is recommended that the drafting of a will be very carefully reviewed by an experienced lawyer.

### 6. Trespassing of property in Greece- Adverse possession

Property can be acquired in Greece, not only through a Notarial Deed, but also through adverse possession rights ("chrisiktisia"). A person that exercises acts of possession on a foreign property as if it was his own property, eventually (10-20 years) acquires ownership of this property through chrisiktisia.

It is often the case of people who believe that their properties have been taken care of by their relatives or local acquaintances, to lose same properties to the benefit of the above very

persons through adverse possession.

### 7. Taxation in Greece.

#### A. Inheritance Taxation.

Greek Law has ranked the heirs in categories depending on their kinship with the deceased. Different tax scales apply for each category providing also a tax free amount and a progressive tax scale, depending of the value of the inherited property.

A number of relatives are included to each category/scale. More specifically:

First category: Parents, children, grandchildren, spouse, etc.

Second category: Grandparents, great grandchildren, brothers, sisters and parents in law, etc.

Third category: Any other relative who is not included in the above categories or any other third party.

The tax free amount is €95.000 and €20.000 for each one of the first two categories/tax scales respectively, while the remaining of the property's tax value is taxed in a percentage of 1% for real estate properties and 10% for the rest of the assets.

#### B. Real Estate Conveyance Tax.

It is calculated with 9% for property's value up to 15.000euro and further up with 11% aprx. It is paid by the purchaser.

Several exemptions apply with the most important, the one for "first home residence".

#### C. Annual Real Estate Property Fee.

It is calculated with 0,1% for natural persons and 0,6 % for legal entities. There is an exemption for properties used as primary residence of the tax payer up to 200 sq.m. and whose value does not exceed 300.000€.

#### D. Capital Gains Tax and Value Added Tax.

The conveyance of real estate properties whose building permit was issued after 01/01/2006 is subject to V.A.T. of 19%. In turn, if the property has been acquired by the further seller after 01/01/2006, capital gains tax is imposed on the seller with a progressive scale from 20% to 5%.

#### E. Income Tax.

Relevant statements are submitted annually around May. Income is taxed through a progressive scale from 5% to 40%.

### 8. Family Law in Greece.

#### A. Divorce.

Greek Courts have jurisdiction for the issuance of a divorce if one of the spouses is a Greek citizen, if the spouses have their last residency in Greece, or if the defendant has his/her permanent residency in Greece.

There are two different procedures for the issuance of a divorce in Greece:

the uncontested (consensual divorce) and the contested (litigation) divorce.

#### B. Alimony.

The former spouse has the right to receive alimony after the Greek divorce, if he/she cannot secure his/her maintenance from the income that he/she has or from his/her property. This right is also recognized in case of separation and interruption of life in common. The spouse who terminates the marital life for an important reason has the right to request alimony.

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