

Most people will have some experience of English conveyancing and know how stressful it can be. But how does the property-buying process in France compare? For simplicity, references to England in this article will also incorporate Wales, but not Scotland or Northern Ireland where the process may be slightly different.

The lawyer's role

One of the first things buyers will notice is that there is probably only going to be one *notaire* involved. In English law, each party must have their own legal representation. The role of the *notaire*, though, is not the same as that of a solicitor. A *notaire* is primarily required to ensure that the property is transferred correctly and that all duties are paid on the transfer. The solicitor's role on a conveyancing transaction will go further than that, to make a deeper assessment of the property to be bought. This is an extra step that a specialist solicitor advising on a French purchase in addition to the *notaire* should be able to fulfil as well.

Buyers in France may be surprised to see that the initial contract is not always drafted by the *notaire*, such that the lawyer overseeing the purchase would not have any involvement in a transaction until the contract is completely and fully binding on both parties. Indeed, quite often it is the estate agent who will draft a contract. Though there is nothing wrong with this, it does mean that without the additional help of a specialist solicitor, a buyer will not have been able to receive any legal advice in advance of the contract becoming binding.

“If commissioned before the ‘compromis de vente’ is signed, a survey may provide an excellent tool for the negotiation process”

A binding commitment

In both England and France the process is finalised in two stages: signature of an initial contract (in France generally known as the *compromis de vente* or *promesse de vente*), and then a final transfer deed (in France known as the *acte authentique de vente*). In both cases the initial contract sets out the main criteria and binds the parties into the deal, with the final document transferring ownership.

SPOT the DIFFERENCE

Matthew Cameron compares and contrasts the property-buying process on both sides of the Channel



There are, however, some differences. The final transfer deed in France actually becomes the registered deed, the original of which is retained at the *notaire's* office. In England, the actual transfer deed, once registered, bears little or no value; the real evidence of title is now retained by the English Land Registry, with paper copies being available.

In France, the registered paper document is the ultimate proof of title and is retained at the *notaire's* office, so *notaires* bear the responsibility for ensuring the safe record of title to land in France.

Pre-purchase surveys

Readers may remember that several years ago in England there was a heated debate about whether to impose on sellers the requirement to provide a Home Information Pack. This HIPS report was supposed to streamline the conveyancing process, with all relevant information about a property – including a full survey – being provided in advance at the seller's expense. The idea was

controversial and only the energy efficiency report remains. Now, in England and in France, this well-known rainbow image is compulsory, and must be provided by the seller from the start.

In France, however, a full set of further inspection reports is also obligatory. These provide a good deal of information. Nevertheless, just as in the UK, an independent structural survey will provide a much more detailed analysis of the building and its integrity. If commissioned before the *compromis de vente* is signed it may also be an excellent tool for negotiating the sale price.

The final handshake

Another big difference between the two systems is the procedure on the date of completion. In England, the sale deed will be signed in advance by the parties, yet not dated. The seller's solicitor will hold this document pending completion and on receipt of purchase funds from the buyer's solicitor, will date the deed, thus rendering it completed (subject to registration).

In France the parties go to the *notaire's* office for a completion meeting where the sale deed is read out before the parties sign on the dotted line. This meeting is

often an enjoyable event, and also offers the buyer the opportunity to visit the property once more to ensure that everything is in order. If any of the parties cannot attend they can be represented by completing a power of attorney to authorise someone else to sign the deed on their behalf.

There is no such completion meeting in England. Yet such a meeting does tend to give a certain feeling of conclusion to the whole procedure, with the parties knowing that they are part of the legal process. How much more satisfying is that, rather than waiting at an estate agent's office waiting for the solicitors to ring to say that the agent can release the keys to a house? Many readers, I'm sure, will have memories of such waiting around.

The two systems are very different, although at their core they have the same intention: the safe and valid transfer of title as between the parties, such that the buyers will enjoy free and unfettered ownership.

There is clearly no 'perfect' system for this process of land transfer, yet the ability to understand the entire process – even down to minutiae such as when you need to have insurance cover in place – is vital. Being able to compare and contrast the two procedures should generally assist in that understanding. ■

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