

Specialised and Personalised Real Estate Services in Portugal

Bernardino, Resende E Associados, Sociedade de Advogados R.L., (also known as “BR”), began its activity in 1999.

The Firm

“BR is a ‘boutique law firm’ basing its action in Personalisation, Excellence, Dedication, Organisation and Professionalism of our lawyers,” said Estêvão Augusto Bernardino, founder and managing partner.

The firm covers several type of operations in real estate law, such as the purchase and sale of hotels, buildings, distressed debt acquisition, commercial leasing, property management, licensing of various real estate projects in tourism, commercial, industrial and retail, structuring joint ventures, procurement of loans, real estate investment fund, formation, planning, construction and urban rehabilitation.

“As a boutique law firm we offer specialised and personalised high quality legal services and our main purpose is to anticipate and optimise our client’s needs,” added Mr Bernardino.

Recent Activity

BR was recently involved in setup of a luxury five star hotel where the firm acted as lawyers from the purchase of the land until the hotel began operating, with a current value of over €75 million.

Mr Bernardino also noted the purchase of a portfolio of already leased real estate buildings. The firm assisted its client in the previous due diligence and in the purchase of the assets, until the restructuring of a real estate group of companies, optimising the properties and reducing debt.

Real Estate in Portugal

Discussing the real estate regime in Portugal, Mr Bernardino noted that transfer of ownership is made by a written agreement, either before a public notary or a lawyer.

“The parties usually sign first a promissory purchase and sale agreement, where they establish the conditions under which the purchase and sale is made; Portuguese law protects both parties in the process,” he explained. “After the final and purchase deed is concluded, the new owner should deposit the title deed and request the registration of the transfer of ownership at the Land Registry Office, which is legally required in order to be effective and protect ownership property rights against any third parties.”

He also highlighted the current Lease Law which simplified the eviction legal procedure, creating a special public entity that supervises all the process.

Legal Complexities

He described the real estate law in Portugal as “very transparent and easy to deal with”,

noting that there are no restrictions on foreign investment and that the annual yields are very interesting.

However, he stated that there are certain aspects to consider depending on the type of investment made.

“As an example we can mention indirect acquisitions of properties, when the investor acquires shares of a company that owns property, as the investor needs to have full knowledge of the tax history and contingent liabilities of the Company that holds the properties,” he elaborated. “Another example is the case of investments made through real estate funds, where there are regulatory aspects to be considered such as the supervision of the Portuguese securities market commission (“CMVM”) and the Bank of Portugal.”

BR is able to assist its clients to overcome these difficulties in the due diligence procedure, where it can optimise the purchase and sale – creating a SPV with certain tax benefits, for example.

Changes in Legislation

A particularly significant change to legislation in recent years is the implementation of the Golden Residence Permit for Investment programme (known as Golden Visa) in October 2012, which allows non-EU citizens to obtain a residence permit in Portugal if they carry out one of the investments set out under the law, though the purchase of real estate.

Mr Bernardino also mentioned the establishment of the new regulation in the urban rehabilitation of properties, especially in Lisbon and Porto.

Emerging Trends

Mr Bernardino noted that Portugal has been consistently improving its position in the real estate markets. Looking at the top 10 European cities, Lisbon can be found alongside cities such as Berlin, Amsterdam or Madrid.

“We have seen a considerable growth in the Real estate Market, with especial focus on urban rehabilitation of properties especially Lisbon and Porto, not only for housing but also buildings that are converted into hotels, offices or housing development intended for the luxury segment,” he continued.

“These investments have contributed to the regeneration of cities, giving a new impetus and urban quality in the prime areas of Lisbon and Porto.”

Alongside with the Golden Visa programme, Mr Bernardino also highlighted the non-habitual tax resident special regime, which provides an attractive regime for foreigners who wish to establish their tax residence in Portugal and has contributed to significant investments made in Portugal.

“The NHR is one of the most competitive in Europe, attracts high net worth individuals from Europe and other countries that are investing massively in Portugal,” he added.

Predictions

Along with the positive economic indicators, Mr Bernardino believes that Portugal has important legal instruments - such as the golden visa programme and NHR non habitual tax residence regime - plus existing tax incentives and EU funds for urban regeneration, which are expected to continue having a very important role in the growth of the Portuguese real estate market.

“We highlight also important EU incentives that Portugal will be receiving until the year 2020 under the “Portugal 2020” EU funding programme. It is expected that Portugal will receive €25 billion by 2020, which is expected to promote growth in investment in real estate and urban rehabilitation in Portugal,” he concluded.



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