

A Brief Overview on obtaining Title to Land in Antigua and Barbuda



The process of buying and selling land in Antigua and Barbuda has been significantly simplified as a result of the Registered Land Act Cap. 374 of the Revised Laws of Antigua & Barbuda.

Virtually all land in Antigua is now “registered” which is to say that the boundaries have been surveyed, demarcated and registered in the central Land Registry. This provides a measure of certainty and consistency.

With respect to the Title process, this commences with the prospective purchaser identifying the land/ property that they are interested in purchasing. An offer is then made which, if accepted, results in a Sale and Purchase Agreement; the effect of which is that the Purchaser commits to buy and the Vendor commits to sell. Title is verified via a search at the Land Registry which maintains records of all registered land. The purpose of the search is to determine whether or not there are any encumbrances – cautions, restrictions, charges etc. which would need to be removed so that title can be deemed “free and clear”.

Typically provision is made in the Sale and Purchase Agreement for a down-payment/deposit; usually 10% of the purchase price with the balance to be paid within an agreed timeframe. (Other payment provisions are obviously permissible). The timeframe may need to be adjusted to allow for a Non-Citizens’ Licence to be issued. It should be noted that under Antiguan law, persons who are not citizens of Antigua and Barbuda are required to obtain a Non-Citizens’ Licence to own land. The government fee for this licence is equivalent to 5% of the value of the property in question.

Completion takes effect via a Land Transfer Instrument which legally and effectively passes title. This document identifies the parties, the consideration and the property. It is presented to the Inland Revenue Department for them to make an independent appraisal of the property. This appraisal/ valuation does not affect the agreed purchase price but does determine the figure on which transfer tax/ stamp duty is paid. Where the sale price is realistic, the IRD figure will often be the same as the stated consideration. But Inland Revenue can apply (for tax/duty purposes) a higher figure where it is felt that the property is being sold at an undervalue.

The total duty amounts to 10% of the valuation figure (consideration); of which the Purchaser pays 2.5% to IRD and the Vendor/ Seller pays 7.5%. (The parties are at liberty to negotiate a different apportionment between themselves and would record the same in the Sale and Purchase Agreement).

Upon payment of the transfer tax/duty, the Transfer Instrument is presented to the Land Registry for the final stage of processing after which a new Land Certificate (“Title Deed”) would be issued to the purchaser whose name would be recorded in the registry as the new Registered Proprietor.

Anthony Greer LL.M., LL.B. (Lond.), PGDipBA, DMS (Oxford), Barrister, Solicitor and Notary Public