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CONSIDERATIONS ON LAND ACQUISITION IN ROMANIA

The real estate and development market in Romania is again attractive to investors, further to the upward trend recorded since 2015. However, the market evolution is far from reaching the level of the years before the global economic crisis.

In terms of opportunities, the Romanian real estate market keeps offering a wide range of attractions in both office and residential projects.

Land purchase by nationals of EU member states or of a state that is part of the European Economic Area can presently be done in Romania under the same conditions as stipulated by the law for Romanian nationals or natural persons.

Foreign natural or legal persons and stateless individuals from outside the EU can obtain ownership over the land under the conditions regulated by international treaties on reciprocity basis. They cannot obtain ownership over the land on terms more favorable than the ones applicable to nationals of an EU member state and to the legal persons formed under the laws of a Member State.

A legal person residing or non-residing in Romania can purchase all real rights over immovable assets to the extent needed to run business, according to company's business purpose, under observance of the legal provisions on acquiring the right of private ownership over the land by foreign nationals and stateless persons, as well as by foreign legal entities.

The laws regulating the real estate sector are various: the Civil Code, the Law no. 312/2005, the Law No. 312/2005 as to land purchase by foreign nationals and stateless individuals, as well as by legal entities of foreign nationality, the Law no. 17/2014 as to some measures regulating the sale and purchase of farmland located outside town limits, the Law no. 50/1991 as to the development of construction works, the Law no. 350/2001 as to the town and country planning, the Law no. 7/1996 as to cadastre and real estate publicity, etc.

Romanian laws have been adapted to the European legislation and they make an attractive market in terms of size and low labor costs.

However, investment plans with real estate in Romania require particular attention in terms of securing transactions.

In the following lines we will insist on two legal aspects that must be considered



in the implementation of a land purchase for real estate development projects.

Important checkings before closing

When choosing a land in order to build, good price and location do not suffice. There are a number of other major factors that investors should consider, beside utilities, roads, access and surrounding neighborhood. Checking done as of negotiation stage is essential for the success of all real estate projects.

The first and most important, in our opinion, is the analysis of the deed of ownership over the land, from the present owner to the original one.

The buyer must make sure that it exists, that there are no major legal risks related to holding or exercising the right of ownership by the seller, that the property is not encumbered by burdens (mortgage), and that it is registered with the Land Registry.

Furthermore, it is recommended to check that there are no interdictions regarding the alienation of that land and that all preemptive rights over that property, if the case, have been exercised.

In Romania, the process of restoring ownership of land and property confiscated by the communist regime continues to raise legal issues more than 25 years after the Revolution, and many properties still have unclear or potentially litigious legal status.

Beyond these few legal aspects regarding

the ownership title, the buyer must take into account several other minimal verifications to make sure that the respective land is technically fit for development (geotechnical surveys, checking the land for utility networks crossing it, environmental studies etc.). All these measures are absolutely necessary in the case of land purchase for development purposes (building on), as in certain situations the Romanian laws impose some restrictions on building (for instance, when utility networks cross the land in question at ground / underground level).

Pay attention to negotiating and drafting the transaction documents

The guarantee of success in any real estate investment begins with the negotiation and drafting of the property sale documents, which are most of the time very complex and require correct and consistent structuring of the transaction.

It's important to know that the documents of land purchase for construction are susceptible to inserting suspensive conditions stipulating, among other things, the making of the above analyses or even obtaining a construction permit prior to closing the land sale in question. Special attention should also be paid to seller's representations and warranties in the transaction documents. They are meant to ensure better protection for the buyer in case of eviction, defects or objective impossibility of building on the land.

In relation with the real estate market, land certainly is the investment that has the greatest potential for growth. In order for an investment to prove profitable, the investor must turn to the best real estate consultants and teams of specialized lawyers consistently experienced in the field.

Note: Information in this article is not legal advice. This article provides general information, based on existing laws on the day of its publication. All steps to take or not take action should rely not on this information, but on specific legal advice.

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