Global Corporate Real Estate Guide - Hungary

Real Estate Law

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# What is included in the term “real estate”?

Under Hungarian law, the term “real estate” includes the following:

Land

Any buildings or structures located on the land

# What laws govern real estate transactions?

Real estate transactions are governed primarily by the New Hungarian Civil Code, which entered into force on 15 March 2014. However, several other legislative acts provide special provisions relating to the acquisition of agricultural lands and/or commercial leases. Zoning regulations are adopted and enacted by local municipalities.

# What is the land registration system?

There is a single, national land registry system where ownership can be verified and where interests in land are registered. However, since lease agreements cannot be currently registered in the land registry, one cannot verify from an independent source whether a lease agreement has been concluded in relation to specific real estate.

Within certain statutory limits, rights recorded in the land registry are effectively guaranteed.

# Which authority manages the registration of titles?

The Land Registry Office in the national land registry system manages title registration.

# What rights over real property are required to be registered?

The following rights are required to be registered:

Ownership right

Mortgages

Usufruct

Easements

Third parties without notice are not bound by unregistered interests over property. Subsequently, beneficiaries of the rights below usually record their rights in the land registry, including:

Call options

Repurchase rights

Right of first refusals

Right of enforcement

Right of support

# What documents can landowners use to prove ownership over real property?

The Land Registry Office issues an official copy of the land registry sheet of the relevant property, verifying all rights registered in the land registry with respect to that particular property.

# Can a title search be conducted online?

Either an electronic or a hard copy of the land registry sheet for a property can be obtained from the Land Registry Office for a statutory fee.

# Can foreigners own real property? Are there nationality restrictions on land ownership?

Citizens of the EU and legal persons incorporated in the EU may freely acquire any non-agricultural real estate.

Foreigners who are not EU citizens or legal persons who are not incorporated in the EU must obtain permission from the competent government agency before acquiring any non-agricultural real estate.

Foreign legal persons and private individuals outside the EU cannot acquire agricultural land in Hungary. According to the New Act on Arable Land, citizens of the EU, the EEA and countries equivalent under international treaties are allowed to acquire agricultural land with the same strict conditions as those for Hungarian citizens. Domestic natural persons and EU nationals, other than farmers, may acquire the ownership of land if the area of the land in their possession does not exceed one hectare together with the land proposed to be acquired. Legal persons of the EU and the EEA are not allowed to acquire agricultural land.

# Can the government expropriate real property?

Government and quasi-government authorities can expropriate property, but appropriate, unconditional and immediate compensation must be paid and remedies, including judicial review, are granted to the owners.

# How can real estate be held?

Freehold

Leasehold

# What are the usual structures used in investing in real estate?

Limited liability company

Privately held company limited by shares

As of July 2011, the real estate investment trust (REIT) regime has been introduced in Hungary with significant tax advantages and since then the REIT structure has been used by investors. Under the REIT legislation, a REIT may operate in the form of a public company limited by shares.

# How are real estate transactions usually funded?

Most real estate financing is arranged through institutional lenders such as banks, pension funds and credit unions. Interest rates are generally fixed for a specified period of time or are variable based on a “prime rate” set by the lending institution on a periodic basis. The prime rate is based on either the base rate announced by the European Central Bank or the base rate set by the Hungarian Central Bank, depending on whether the loan has been denominated in euro or Hungarian forint. Typically, the borrower bears the responsibility to pay for all of the lender’s legal and other costs, such as commitment and processing fees in arranging property financing.

Lending institutions typically take a mortgage as security, registering it against the title to the relevant property at the Land Registry Office.

# Who usually produces the documentation in real estate transactions?

The purchaser’s lawyer generally prepares the transactional document and liaises with the Land Registry Office in connection with the registration of purchaser’s title to the real estate. However, the seller’s legal counsel is also usually involved in drafting the documentation.

# Can an owner or occupier inherit liability for matters relating to the real estate even if they occurred before the real estate was bought or occupied?

Yes. The new owner can inherit liability regarding the site condition of a land (archaeological and environmental materials). However, in respect of environmental pollution, the owner may escape liability by proving, with substantial certainty, who caused the contamination, and the polluter can still be obligated to carry out the cleanup.

# Does a seller or occupier retain any liabilities relating to the real estate after they have disposed of it?

A seller can retain liabilities relating to the real estate even after it has disposed of it. However, the sale and purchase agreement may stipulate otherwise.

For properties held in leasehold, the tenant is not held liable for the obligations of previous tenants.

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