Global Corporate Real Estate Guide - Sweden

Acquisition of Real Property

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# What are the usual documents involved in such transactions?

The most common way to transfer commercial properties is through the sale and purchase of shares in a limited liability company owning the real property. As such, the typical document for a real estate transaction is a share purchase agreement.

However, a transfer of the real property itself is - in addition to a share or property purchase agreement - concluded through a bill of sale (Sw. Köpebrev) signed by the seller and buyer. The bill of sale shall contain a statement of the purchase price and a declaration by the seller that the property is transferred to the buyer in order to be valid. Furthermore, in order to apply for a title deed for the purchased property based on the bill of sale, the seller's signature on the bill of sale needs to be witnessed by two non-parties to the transaction.

Using double sales documents in this manner is standard practice in real estate transactions where the real property is transferred to a new owner. The first document (purchase agreement) typically contains the main part of the agreement between the parties, whereas the second document (bill of sale) merely contains minimal information about the purchase, as discussed in the previous paragraph. The main reason for using double sales documents is that it allows the buyer to apply for a title deed while disclosing only a minimum of the terms of the transaction.

If there is other property (such as chattel) besides the real property included in the purchase for a combined purchase price, it is sufficient for the bill of sale to contain a statement of the combined purchase price (this will however increase the amount of stamp duty the buyer will be liable to pay).

Separate agreements on price, e.g., agreements stating another purchase price than the purchase price stated in the bill of sale, are invalid. Thus, the prevailing purchase price is the purchase price stated in the bill of sale. This purchase price may be adjusted if, taking into account the content of the sales documents and other relevant circumstances in connection with the transaction, it would be unreasonable for the purchase price stated in the bill of sale to be binding.

# What are the warranties given by a seller to a buyer?

The buyer is generally responsible for conducting extensive due diligence with respect to the real property (and, as applicable, the real property-owning entity) to be acquired. However, the seller can give warranties and these are naturally negotiated between the parties. The scope of the warranties provided varies greatly depending on the individual circumstances of the transaction.

If the transaction is structured as a sale of the shares in a real property-owning entity, additional warranties may be needed to regulate the corporate liabilities of the company that are not related to real estate.

# When is the sale legally binding?

When a legally binding purchase agreement of the real property is signed by the seller and the buyer, the sale is legally binding between those parties. However, if the purchase agreement contains conditions precedents before the buyer takes possession of the property, the transfer of ownership can be said to be "on a sliding scale" to be assessed depending on the conditions set out.

A registration of title deed must be obtained to protect the buyer from claims of ownership from a third party.

# When is title transferred?

Title transfer formally occurs when the buyer has applied for and received a registration of title deed. It is important to reiterate however that ownership is transferred once a legally binding purchase agreement is signed (as discussed in ”When is the sale legally binding?”), regardless of when the title is formally transferred.

# What are the costs usually shouldered by the parties?

The buyer usually pays for the following:

The buyer’s own legal costs

Due diligence costs (including but not limited to consultants who have prepared building condition reports, environmental assessments, valuation appraisals, real estate surveys, etc.)

Registration fees (if applicable)

Stamp duty (if applicable)

The seller usually pays for the following:

The seller’s own legal costs

Agent’s fees

Discharge costs for the release of securities

Taxes resulting from potential profits being made on sale

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