

Solicitors Guide to Buying a Property with Midas PLC



MIDAS PLC

General Guide

The aim of this guide

This brief guide to buying a Midas PLC property in one of the emerging markets has been prepared by our Solicitors. It is intended to help you understand:

- The process of buying a home in an emerging market
- The special features built into the process by Midas PLC to ensure your security
- The choices of purchase method available to you

This guide is no substitute for you taking your own legal advice.

What should I bear in mind when looking for a property in and Emerging Market?

The first point to bear in mind is that many of the emerging market countries are new as far as the overseas property market is concerned. Buying a property in an emerging market country is not the same as buying a property in, say, Spain or France. In those countries, millions of foreigners have already bought homes. As a result every notary, land registry, tax office, town hall and lawyer has dealt with hundreds of them. So everybody knows what to do. This is not so in some emerging market countries. You could be the first foreigner this official has ever dealt with. This can lead to delay, confusion and frustration. If you deal with the wrong people or buy the wrong property it can also lead to danger.

You are a pioneer! Pioneers enjoy lots of benefits by being early in the market but they must expect the road to be a bit bumpy.

The Midas PLC system has been designed to bring you the maximum possible safety and security – and to eliminate the danger and minimise the bumpy bits!

What are the main dangers when buying property in an Emerging Market?

- Does the property have legal title, planning permission and building consent?

In Turkey for example there are huge numbers of properties that have no title, no planning permission or are illegally constructed. According to the Turkish Daily News (14th January 2004) there are 600,000 illegal houses in Istanbul alone!

Midas PLC guarantees that when you receive your property it will have full legal title, planning permission and the appropriate building permit. None of your money will be released to Midas PLC until either they prove they have title to the land they are building on and that building licences have been issued or you have mortgage security to the value of the money paid. For your safety, your deposit will be held by their solicitors 'in escrow' (see below for the meaning of this) until this has been done.

'In escrow' mean that the lawyers hold the money and can only release it if certain conditions are met. The lawyers are The International Law Partnership LLP ("ILP" – formerly John Howell & Co), solicitors & international lawyers, of The Vaults, Holborn Hall, 193-197 High Holborn, London, WC1V 7BD – www.lawoverseas.com. They are a specialist firm of English solicitors regulated by the Law Society of England & Wales.

- Does the property have *full* title?

There are various types of "title" in different emerging markets, some of which give you only the right to occupy land or transitional/provisional rights, rather than full ownership.

Midas PLC guarantees that your property will have a full title.

- Is the property affected by debts?

All Midas PLC properties will be delivered to you free of debt.

- Is the property built in an area zoned for individually owned homes rather than, for example, hotel style developments?

Midas PLC guarantees that your property will be zoned for individual residential occupation, not as an area reserved for tourist lettings only.

Special dangers when buying new properties

- What happens if the builder goes bust?

In many countries, where you pay all or part of the price before the property has been fully built, the law requires that the property must have the benefit of a bank guarantee to ensure that, if the developer goes bust before the building work is finished, you do not lose your money. This is not the case in most emerging markets and most developers offer you no guarantee of any kind against this risk.

The Midas PLC system gives you full security for the money you have paid. Midas PLC will do this in various ways, depending on the purchase method you have chosen. These are explained below.

- Is the building specification of what you are buying clear?

A Midas PLC contract explains clearly and fully what you will receive.

- What 'common facilities' are to be provided and how are they going to be managed?

In a Midas PLC contract all of the common facilities (such as pools, gardens, parking areas and lifts) are clearly listed and you will enter into a contract with Midas to maintain those facilities for a fixed price for an initial period of two years. After that time the residents will, together, be able to choose whether to continue to use Midas to manage the property or to appoint another management company.

Pressure Selling

Some sellers in Emerging Markets pressure you to sign full, binding, purchase contracts as soon as you decide to buy a property.

With Midas PLC you will only sign a Reservation Contract. See below for more details of this important safety measure.

What is the process of buying a Property in an Emerging Market?

1. The Reservation Contract

When you see a property that you want to buy you will be given the opportunity of signing a Reservation Contract. When you sign the Reservation Contract you pay a Reservation Deposit of £500.

Once the Reservation Contract has been signed by the Buyer & the Seller the property will be taken off the market for a period of 28 days so that your lawyers can carry out the necessary checks on the property to ensure that everything is in order.

If you choose not to sign a Reservation Contract at this stage the property will not be taken off the market and there is the substantial danger that, whilst your lawyers are checking the property, it will be sold to somebody else.

Your £500 Reservation Deposit is made payable to Midas PLC and held by Midas PLC in a client account until you sign a Preliminary Purchase Contract whereupon the £500 is forwarded to Midas PLC's solicitors, ILP. They will hold it in escrow (see above for the meaning of this).

If you sign the Preliminary Purchase Contract the Reservation Deposit will be dealt with as stated in that contract. See below for more details of the various types of contract available.

If your lawyer discovers any problem with the title to the property or its planning status and you decide not to go ahead with your purchase your Reservation Deposit will be returned to you. If you simply change your mind about the purchase then provided you advise Midas PLC within 28 days that you have decided not to proceed, your £500 will be refunded.

2. The Preliminary Purchase Contract

Once you are 100% happy that you wish to go ahead with your purchase you will sign a Preliminary Purchase Contract. This is, in many ways, similar to the contract you might sign in England when buying a house. It commits you to the purchase of the property.

Midas PLC offers *four different types* of Preliminary Purchase Contracts, depending upon which purchase method best suits your needs. See below for details of the available purchase methods.

When you sign the Preliminary Purchase Contract a further payment is made. How much depends on the purchase method you have chosen.

3. Security for the money you have paid

Depending on the purchase method you have chosen, Midas PLC will issue you with security to guarantee the safety of the money that has been paid to them. See the description of the various purchase methods (below) for details of the security offered.

4. Stage Payments

You will be required to make further payments as the building work progresses and/or when the property is finished. The payments will depend on the purchase method you have chosen. See the description of the various purchase methods (below) for details.

5. The Deed of Sale

When the building work is finished the property will receive an official certificate confirming satisfactory completion of the building work in accordance with the building permission granted and you will sign the Deed of Sale transferring ownership into your name. This is, generally, signed at the Land Registry responsible for the area where your property is located. Many people prefer to give their lawyer a Power of Attorney to sign this document on their behalf as this saves a journey, often at fairly short notice. At the same time as the Deed of Sale is signed you pay the various taxes and fees associated with your purchase. A general guide is to allow 5% of the purchase price for fees and taxes, but your lawyer will give you a detailed estimate of these expenses.

What are the purchase methods available to me?

There are *four* methods.

Method 1 - Pre-Release Sales

A strictly limited number of properties on each development are offered on sale at a very early stage – even before final planning permission has been granted and well before building starts. Buying in this way ensures that you have the choice of all of the best sites and properties and offers a significant (typically 30% - 40%) saving over the current market value of similar properties and a 20% saving compared with the prices at which normal 'off-plan' sales will be offered. Off-plan sales are sales made before the property is ready for delivery to you. They are explained below.

You sign a special Pre-Release Reservation Contract and pay over your normal £500 Reservation Deposit. This puts you into a priority waiting list. When the planning permission is granted and the final version of the site layout is therefore known, all of the people who have received a property are notified and have 28 days to reconfirm which property they would like to buy and to sign a Preliminary Purchase Contract for that property.

If the planning situation was, for any reason, not resolved by a date stated in the Reservation Contract the contract would, at your choice, either be extended or cancelled. If you chose to cancel your Reservation Deposit would be returned.

At the time of signing the Preliminary Purchase Contract you pay ILP 95% of the price of the property, less the Reservation Deposit already paid. The remaining 5% is paid after delivery of the property to you, once any snagging has been completed and upon signing over legal title to you. This will, typically, be 14 – 60 days after delivery. You will be given 14 days notice of the date fixed for the signing of the title.

As security for the sum paid, Midas PLC will provide you with mortgages over the plot of land on which your house will be built and/or other land owned by them, generally in the same development. The land mortgaged will be to a value (confirmed by an independent valuation) equal to or in excess of the amount of the payment made.

The money paid to ILP is held by them in escrow until those mortgages or charges have been prepared and signed. It is then released to Midas PLC.

The mortgages will be cancelled, progressively, as building progresses and any remaining mortgages will be cancelled at the time you sign the title deed – i.e. when title to the property is signed over to you.

The main attraction of this purchase method for the Buyer is the heavy discount offered.

The drawbacks are that the paperwork is a bit more complex and the fact that, when the Buyer signs the Preliminary Purchase Contract and pays over the bulk of the money, the building permits will not have been issued and the Title may not yet have been registered in the name of Midas PLC (though they *would* have bought the land and/or have the consent of the registered owner to proceed in this way and the land *would* have planning permission). Balanced against this is the comfort of the mortgage security offered.

Method 2 – Off-Plan Sale with Cash Payment

As already explained, 'Off-plan' sales are sales made before the property is ready for delivery to you.

This is the same as the pre-release purchase method, except that sales do not commence until the project has been launched. As a result the price is somewhat higher, though it still shows a significant saving compared with the same property bought off-plan by way of stage payments (see below).

We start with a reservation contract, as described above, under which you reserve the property for 28 days.

When your lawyers have carried out their checks and you have decided to go ahead with your purchase you sign the Preliminary Purchase Contract and you pay the 95% of the price of the property, less the Reservation Deposit already paid – again in the way described above.

You receive the same security as you would receive if buying Pre-Release and, from that point on, the process is exactly the same as in the case of a Pre-Release contract.

For the Buyer, the attraction of this purchase method is the discount offered which, whilst less than in the case of a Pre-Release contract, is still substantial. There is minimal complexity and, by the time you sign the Preliminary Purchase Contract and pay over your money, the building permits will already have been issued and the Title will have been registered in the name of Midas PLC.

The drawbacks are that the paperwork is a bit more complex and that you are paying out most of your money "upfront". Balanced against this is the comfort of the mortgage security offered and the substantial discount.

Method 3 - Off-Plan Sale with Stage Payments

This is the most common way of buying.

Off-plan sales are sales made before the property is ready for delivery to you.

You sign a Reservation Contract, as described above, under which you reserve the property for 28 days.

When your lawyers have carried out their checks and you have decided to go ahead with your purchase you sign the Preliminary Purchase Contract and you pay an agreed first stage payment, normally 30% of the price of the property, less the Reservation Deposit already paid.

As security for the sum paid, Midas PLC will provide you with mortgages over the plot of land on which your house will be built and/or other land owned by them, generally in the same development. The land mortgaged will be to a value (confirmed by an independent valuation) equal to or in excess of the amount of the payment made.

As the building work progresses further stage payments become due (again please check with Midas PLC for actual stage payment terms for each development). However, a typical progression would be as follows:-

- When the concrete walls, roof and floor of your property are fully constructed (but before windows and doors have been fitted) – a further 30% of the price.
- When the construction of the property has been completed – a further 35% of the price. At this point you will be permitted, if you wish, to take delivery of the Property.
- Once any snagging has been completed and upon signing over legal title to you – the final 5% of the price.

The interim payments will be triggered by certificates from the architects confirming that the work has reached the stage claimed.

For the Buyer, the attractions of this purchase method are the simplicity and the ability to pay by stage payments. Yet you still pay much less than you would expect to pay for the same property if you waited for it to be built before buying. There is minimal complexity and, by the time you sign the Preliminary Purchase Contract and pay over the first instalment of your money, the building permits will already have been issued and the Title will have been registered in the name of Midas PLC.

The disadvantage is that the property will cost you rather more than if you had paid the bulk of the price "upfront" as in methods 1 and 2.

Method 4 - Sale once the property has been built, 'Keys in Hand'

You may also buy the property once it has been fully completed.

You sign an ordinary Reservation Contract, as described above, under which you reserve the property for 28 days.

When your lawyers have carried out their checks and you have decided to go ahead with your purchase you sign the Preliminary Purchase Contract and you pay 30% of the price of the property, less the Reservation Deposit already paid.

As soon as the title documents transferring ownership into your name are ready for signature you sign the title deed at the local Land Registry, pay over the rest of the price and receive the keys. Depending upon your circumstances, the preparation of the title deeds can take a few days or several months from the date when you sign the Preliminary Contract.

For the Buyer, the attractions of this purchase method are simplicity, that they can see what they are buying and that they can take delivery quickly.

The disadvantages are that all or most of the properties are likely to have been sold before this point, so you will have limited choice of properties and you do not have the prospect of the property rising in value during the construction period, giving you the benefit of the full increase in the value on the basis of a small down payment.

The need for legal advice

A foreigner buying a property in an emerging market destination is extremely foolish if he does not take independent legal advice. This is not the same, well trodden, path as – for example – buying a property in Spain or France.

The International Law Partnership LLP (“ILP” – formerly John Howell & Co) will not be able to act for you as they are representing Midas PLC. The International Law Partnership LLP and Midas PLC are, therefore, pleased to recommend the services of:

Name: Phillips International Lawyers
Address: 24 Greville Street
London EC1N 8SS
England
Tel: +44 (0)207 198 7907
Fax: +44 (0)207 198 7902
Contact: Emiliya Pentova
0207 198 7907
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Name: Imison & Co.
Address: City Tower
40 Basinghall Street
London EC2V 5DE
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Tel: +44 (0)207 448 4860
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Contact: Coskun Yorulmaz
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Name: The International Property Law Centre
Address: Suffolk House
21 Silver Street
Hull
HU1 1JG
England
Tel: +44 (0)870 800 4500
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Contact: Tarra Hickson
0870 800 4523
tarrah@maxgold.com

These firms are very respected solicitors, experienced in dealing with the purchase, by foreigners, of overseas property. They are familiar with the Midas PLC developments and documentation and so should be able to give you a good and reasonably priced service.

If you choose to use any of these firms they will be acting in your interests alone. They do not represent Midas PLC or look after the interests of Midas PLC. Neither Midas PLC nor ILP receives any payment or other benefit by making this recommendation.

You are; of course, free to use any lawyers of your choice.

The next steps

If you would like to reserve a property:

1. Decide which property on which development you wish to reserve.
2. Complete the appropriate Reservation Contract which will be supplied to you by your Agent or Midas PLC.
3. Complete and sign the Escrow Agreement with the Reservation Contract or within 7 days thereafter and provide the ID as stated.
4. Make out a cheque for £500 payable to Midas PLC, you can pay in Sterling or Euros, simply replace “£ Sterling” with the relevant currency in the brackets on your cheque.
5. Give/Send the Reservation Agreement, (Escrow Agreement now or within 7 days) and cheque to your Midas PLC agent or, if there is no agent, direct to Midas PLC. **DO NOT SEND to ILP.**
6. Midas PLC will then check all is OK and then send your cheque and a copy of the Reservation Contract and Escrow Agreement (signed by them) to ILP.
7. ILP will sign the Escrow Agreement and send you a copy of that agreement and a copy of the Reservation Contract signed by Midas PLC.
8. Your reservation will become effective when you receive a copy of the Reservation Contract, signed by Midas PLC.
9. Midas PLC will then send you a full document pack in relation to your proposed Buy/Sell purchase, including:
 - a. A draft Preliminary Purchase and Sell Contract
 - b. Proof of ownership
 - c. Evidence of title to the land or property to be used as security
 - d. Evidence of the value of the land or property

More Information?

In the first instance, clients should get back in contact with the Midas Agent who introduced them to Midas. Alternatively you can speak to David Southwell at Midas PLC.

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