

Courts Find Banks Guilty of Sharp Practice

Written by Mike Walsh

A Marbella legal firm has scored a victory over banks that is predicted to put more money in the pockets of Spain's hard-pressed property buyers whilst helping to kick-start property sales. Ground-breaking rulings by courts in Seville and Leon upheld Ausbanc legal services; the company challenged the legitimacy of the notorious Clausula Suelo otherwise known as the minimum clause. This small print codicil denies clients benefiting from a drop in the Euro Interbank Offered Rate (Euribor); the banking co-operative

This devil in the detail is written into many mortgage contracts, often without the knowledge of the house buyer. Its presence can have an extremely negative impact since it artificially holds repayment rates high. Property buyers who signed up to Euribor mortgage plus at 1.5% should pay 2.5 percent interest. The inclusion of this reprehensible clause means the rates are set from 3 percent or higher with homeowners ending up paying considerably higher rates.

The Seville judicial finding involved the BBVA, Caixa Galicia and Cajamar; respectively the country's leading bank, savings bank and leading mortgage co-operative.

The ruling represented a significant victory for homebuyers. Legal experts predict that the finding would open the floodgates by enabling other suits to be brought against other mortgage providers. A further case in Leon extended the judicial ban to include Caja España. The bank was criticised for its 'bad faith' in exposing their clients to an unacceptable level of risk from the clause that acts as an enduring bias against clients and which excludes possibility of negotiation or modification.

Raquel Perez of perezlegalgroup.es says; "A side effect of the ban on this ignominious clause will not only reduce the mortgages of many homebuyers; it could help to get the Spanish property market moving again as investors will be quick to take advantage of the ruling."

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