

## **For Americans, Buying a Home in Mexico Can Be Risky.**

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Nov. 19--It is the sort of thing heart attacks are made of.

You buy the vacation home of your dreams on a breathtaking Mexican beach, only to find out it isn't yours at all.

Someone else owns the property, and they want it back.

It happened last month to dozens of families in Baja, many of them from the United States.

Investing in foreign real estate can be tricky business, but it doesn't have to end in disaster, experts say. With a few precautions, Americans should be able to invest safely in a home south of the border.

The Baja dispute is a reminder, though, of the potential dangers.

Police evicted the Baja residents after a Mexican court ruled that the land they occupied had been wrongly stripped from its rightful owner nearly 30 years ago. The peasant land collective that gave Americans and other foreigners long-term leases to build homes didn't have the right to do so, the court said.

What happened in Baja could happen anywhere, said Cliff Morgan, senior vice president at First American Corp. in Santa Ana.

Title insurance is an unsuspecting buyer's best defense, Morgan said.

Title companies like First American, which has been selling policies in Mexico for more than 30 years, research whether there are any problems related to the ownership of a piece of property. If they uncover a serious glitch, the buyer can walk away.

But if the sale goes ahead and it later turns out that the title insurer missed something and a dispute arises, the company is obligated to defend the owner. And if the owner ends up losing the property, the company must cover the loss.

Put another way, title companies guarantee that you do indeed own what you bought. If for some reason it turns out that you don't, due to a problem with the title, the insurer is responsible.

In the United States, buyers are not required to take out a policy.

But most of them do.

When Trudy and Bill Hansen decided to invest in Baja in 1989, they had no idea any problems were brewing. The Villa Park couple ended up losing two houses there.

Before leasing land in Baja, the Hansens didn't consult with a lawyer or buy title insurance. Some of their neighbors in Baja assured them that they had hired a lawyer to investigate the matter, and said the lawyer hadn't uncovered any snags. The Hansens did not think title insurance was available.

Losing the homes was a major blow. The Hansens spent \$425,000 for 30-year leases on the lots and construction of two homes. To get the property back, the couple would have to pay another \$375,000 -- the amount the new owner is demanding.

"I love that place. It is so gorgeous. But I think we're going to have to give it up," Trudy Hansen said.

In some more out-of-the-way locations, it may not be possible to obtain title insurance. If that is the case, buyers should hire an experienced local lawyer to research any potential problems with the title, said Scott Turner, a lawyer at Cox Castle & Nicholson in Irvine with expertise in buying land in Mexico.

It would have been very difficult for the Baja homeowners to obtain title insurance in the late 1980s and early 1990s, when families like the Hansens were building their houses, said **Dennis Peyton**, a Tijuana lawyer who is representing about 200 of the foreigners.

But First American began selling policies in Baja in the 1970s.

Other companies, such as Fidelity National Financial and Stewart Title, sell title insurance there as well. In some cases, title companies may not be willing to issue a policy because the potential problems are so serious. Or they may offer to issue a policy that provides limited protection. When that happens, would-be buyers have learned some valuable information -- and they need to think carefully about the risks they would be exposed to if they proceed with the purchase.

Title insurance costs vary from company to company. First American, one of the biggest insurers, charges about \$3 per \$1,000 in value, plus roughly \$1,000 in research fees. The one-time cost of obtaining a policy on a \$200,000 home, for example, would be about \$1,600.

But for those thinking of buying a home in Mexico, the title isn't the only potential complexity.

The Mexican constitution prohibits foreigners from owning land in a "forbidden zone" along the coast and border. That doesn't actually mean foreigners are limited to renting,

but there is a wrong way and a right way to deal with this prohibition.

Be suspicious of anyone who offers you a long-term lease, Turner said, because the government doesn't allow them. Leases in the forbidden zone are not supposed to exceed 10 years.

But Mexican law allows foreigners to establish a trust with a local bank, in which the bank holds title to the land for the foreigner's benefit. The trusts are good for 50 years, plus a 50-year extension.

The trust can be set up so that, when it expires, the bank sells the land and gives the money to the trust's foreign beneficiary.

Technically, the foreigner does not own the land. But from a practical standpoint, the investment is well protected.

In a market where demand is strong, foreigners sometimes feel pressured to leap at an opportunity to buy, fearing they won't get another, said Lisa Larkin, a lawyer in Tucson who specializes in helping people buy property in Mexico.

"Buyers end up paying the seller and hoping everything works out," she said.

But it pays to be cautious. If buyers aren't sure whether the price is right, they should have the property appraised by a U.S. company familiar with the Mexican market, she said. Regardless of where in Mexico they buy land or how they structure the transaction, they shouldn't expect help from the United States if something goes wrong.

In Mexico, you operate by Mexican rules.

"Some people expect the American Embassy to send a strongly worded letter (on their behalf) and think that will be that," Turner said.

Such counsel is little comfort to Trudy Hansen.

She wishes she never had built anything in Mexico. Her advice to anyone who is thinking about buying property there?

Rent instead.