

Legal Guide to Buying Real Estate and Land in Brazil

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1. Summary

As with any global real estate investment, when operating in Brazil it is important to ensure that the correct legal procedures are followed. This guide is aimed at giving comprehensive information on the entire process with regards to your legal obligations as well as some background into the system; differences that you should note (particularly if you are new to investing in Brazil); guidance as to finding the right legal team; your contractual obligations; the legal implications of off-plan purchasing; buying using a foreign company name; obtaining title insurance as well as a easy reference Brazilian legal glossary.

Whilst still often referred to as a 'labyrinth' of statutes, rules and regulations – decrees such as the 'Legislative Consolidation Programme' (passed in 2002) have brought in measures that have simplified Brazilian Law (some 10,000 laws were compressed into approximately 120 statutes). Indeed, with the rise of the digital age, it is now relatively easy for Brazilian Lawyers to keep up to date and access the latest legislative / doctrinal changes, court decisions, lawsuit tracking systems and legal news (using online publications such as **Revista Forense**, **Saraiva Data**, **Busca Law** and **Revista dos Tribunais**). For the real estate investor, this can only be good news as you will be able to access information quickly and easily, when you need it.

Nevertheless; whilst statistics from the Index of Economic Freedom have regularly stated that Brazil has a well above average legal safety record; real estate investors often refer to its processes as bureaucratic and slow. You may find yourself having to jump through several legal 'hoops' in order to get your transaction(s) completed – yet we would always recommend adhering to these procedures and accepting them for your own security.

All property transactions within Brazil are titled and, as a foreign investor, you will receive exactly the same rights as a Brazilian citizen. You will see in this guide that there are some restrictions that you will need to be aware of when buying and selling (for example, with properties close to beaches and/or in rural areas). For reasons such as these, it is strongly suggested that you use the services of a professional lawyer who is fluent both in your own language and Brazilian Portuguese.

Note, that we refer to several Brazilian Portuguese websites which do not have English translated equivalents. Where possible we have used 'Google Translator' to provide English versions but the language is not always clear. For this reason, if you have any questions about the content of this document links please do not hesitate to email us at info@brazilinvestmentguide.com and we will endeavour to find the answer you need. Alternatively, your lawyer will be able to assist you with your query.

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2. The Brazilian Legal System

The Brazil legal system is of Roman-Germanic tradition (based on statutes) and laws are issued by the federal government, the states and municipalities. According to 103-A of the Brazilian Constitution, however, it is only the Supreme Court that has the authority to edit binding rules. Academic opinions and jurisprudence (legal philosophy) are, however, very important sources in the making of and interpretation of laws and legal acts.

The Federal Constitution lays out the legislative authority of the government and its authority take precedence to any laws governing a state or municipality. The 250 articles of the constitution comprise of the following:

- Articles 1 – 4: The Fundamental Principles;
- Articles 5 – 17: Individual and collective rights and duties;
- Articles 18 – 43: The Organization of State;
- Articles 44 – 135: The Organization of Powers;
- Articles 136 – 144: The Defense of the State and of the Democratic Institutions;
- Articles 145 – 169: Taxation and Budget;
- Articles 170 – 192: The Economic and Financial Order;
- Articles 193 – 232: The Social Order;
- Articles 233 – 250: General Constitutional Provisions

The Brazilian Constitution in English **The Brazilian Constitution in Portuguese**

The federal government also has exclusive authority to rule on matters relating to citizenship, nationality, energy, expropriation, telecommunications, foreign trade, insurance among others. It is also the role of the federal government to provide general guidelines to the states on matters such as tax, finance, education, environment and the consumer. It should be noted that the municipalities do have powers to rule their own constitutions – however their autonomy is limited by the principles established by the Federal Constitution. The state courts will subsequently implement supplementary legislation according to their own needs (but always according to Federal Constitution specifications).

Legal power – according to the Judiciary Structure framed in the Brazilian Constitution – is divided between the State judicial branch and the Federal branch (with both having different jurisdictions). The judges have the same roles and duties but there are differences in the structure and composition of the Courts. The federal government has the exclusive authority to legislate on civil, commercial, penal, procedural, labour, electoral, agrarian, maritime, aeronautical and space matters.

Alongside the Federal Constitution, there are four legal documents known as 'Codes':

- 1) **The Civil Code** – regulating matters including obligations, contracts, corporations, real estate, property rights;
- 2) **The Tax Code** – the main Brazilian tax regulations which are complemented by many Federal, State and Municipal laws;
- 3) **The Penal Code** – defines and governs matters relating to crime and punishment;
- 4) **The Civil Procedure Code** – regulates the due process of law.

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3. The Courts

Trial Courts – The state territories are split into judicial districts known as comarcas within which are further municipalities. There are a total of 26 courts of justice across Brazil that are located in the capital of each state (and only have jurisdiction over their State territories). Within each comarca there is a trial court (a court of first instance) where cases are decided by a judge (and jury in criminal cases). There are separate specialised courts dealing with legal procedures such as family litigation and bankruptcy. Judgments from these courts can be subject to appeals and judicial review should any of the parties involved wish to do so.

Justice Tribunals – Otherwise known as the court of second instance, the Courts of Justice (Tribunal de Justiça) exist in every Brazilian state and operate as courts of appeal. These courts review any decisions made at trial courts and have the final word on decisions on a state level; such decisions may be overturned by the federal court. Judgments are made by three judges – called desembargadores – and the courts are separated into civil and criminal chambers.

Federal Level Judicial Branch – There are five Federal courts that have the jurisdiction over the Brazilian legal circuit:

- **The Regional Federal Court of the 1st Region (Tribunal Regional Federal da 1ª Região)** has jurisdiction over the Federal District and 13 States: Acre, Amapá, Amazonas, Bahia, Brasília, Goiás, Maranhão, Mato Grosso, Minas Gerais, Pará, Piauí, Rondônia, Roraima and Tocantins.
- **The Regional Federal Court of the 2nd Region (Tribunal Regional Federal da 2ª Região)** has jurisdiction over two States: Espírito Santo and Rio de Janeiro (with its headquarters in Rio de Janeiro).
- **The Regional Federal Court of the 3rd Region (Tribunal Regional Federal da 3ª Região)** has jurisdiction over two States: Mato Grosso do Sul and São Paulo (with its headquarters in São Paulo).
- **The Regional Federal Court of the 4th Region (Tribunal Regional Federal da 4ª Região)** has jurisdiction over three States: Paraná, Rio Grande do Sul and Santa Catarina (with its headquarters in Porto Alegre, Rio Grande do Sul).
- **The Regional Federal Court of the 5th Region (Tribunal Regional Federal da 5ª Região)** has jurisdiction over six States: Alagoas, Ceará, Paraíba, Pernambuco, Rio Grande do Norte and Sergipe (with its headquarters in Recife, Pernambuco).

Superior Courts – The Supreme Court consists of two national superior courts, which grant writs of certiorari in civil and criminal cases:

- Superior Court of Justice (Superior Tribunal de Justiça or STJ)** – grants what is known as a 'Special Appeal' (Recurso Especial) when a judgement made by the Justice Tribunal (Tribunal de Justiça) offends a federal statute or when two or more different rulings have been made on the same federal statute. There are parallel courts for law pertaining to labour, elections and the military.
- Supreme Federal Court (Supremo Tribunal Federal or STF)** – decides on issues relating to offences of the Brazilian constitution and grants 'Extraordinary Appeals' (Recursos Extraordinários) when judgements of second instance courts violate the constitution. Two other courts you may want to accustom yourself with include the **Higher Court of Labor (Tribunal Superior do Trabalho or TST)** and the **Superior Electoral Court (Tribunal Superior Eleitoral or TSE)**.

Small Claim Courts - Act no. 7,244 (1984) set forth the rules governing the establishment and operation of Small Claims Courts in response to the slow and bureaucratic procedures when dealing with relatively modest actions. Such courts process claims not exceeding the minimum monthly salary of Brazil.

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4. Diário Oficial da União (Federal Official Gazette)

The Diário Oficial da União (Federal Official Gazette) has been established since 1862 and publishes information with regards to the activities of the legal system including:

- Laws / legal acts;
- Constitutional amendments;
- Legislative decrees and other acts;
- Treaties, agreements, covenants, and other international acts approved by the National Congress;
- Decrees, provisional measures, and other normative acts issued by the President of the Republic;
- Normative acts issued by Ministers of State;
- Opinions issued by the Federal Solicitor-General and the respective President's decisions;
- Judgments and decisions by the Federal Court of Audit;
- Judicial Branch matters of a normative nature.

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5. Diários Oficiais Estaduais (Official Gazettes of the States)

Each Brazilian State has its own Official Gazette with the latest relevant legal information and updates (often with additional information related to tourism, business, culture and other news):

- Alagoas – [em Português](#) / [in English](#)
- Amapá – [em Português](#) / [in English](#)
- Amazonas – [em Português](#) / [English version unavailable](#)
- Bahia – [em Português](#) / [in English](#)
- Ceará – [em Português](#) / [in English](#)
- Distrito Federal (Brasília) – [em Português](#) / [in English](#)
- Espírito Santo – [em Português](#) / [in English](#)
- Goiás – [em Português](#) / [in English](#)
- Maranhão – [em Português](#) / [in English](#)
- Mato Grosso – [em Português](#) / [in English](#)
- Mato Grosso do Sul – [em Português](#) / [in English](#)
- Minas Gerais (requires subscription) – [em Português](#) / [in English](#)

- Pará – em Português / English version unavailable
- Paraíba – em Português / in English
- Paraná – em Português / in English
- Pernambuco – em Português / in English
- Piauí – em Português / in English
- Rio de Janeiro – em Português / in English
- Rio Grande do Norte – em Português / in English
- Rio Grande do Sul – em Português / in English
- Roraima – em Português / in English
- Santa Catarina – em Português / in English
- São Paulo – em Português / English version unavailable
- Tocantins – em Português / in English

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6. Finding and Working with the Right Legal Team

Brazil, with over 440,000 lawyers, has the third largest number of in the world (after India and the US) with over 440,000 qualified (known as advogados in Portuguese). The legal profession is regulated by state bars which are overseen by the Brazilian Bar Association or the [Ordem dos Advogados do Brasil \(OAB\)](#). The OAB is independent from the government and it is necessary for any practicing lawyer to have graduated in Brazilian Law from university and also be registered at the Order of Attorneys of Brazil.

You may find that a law firm is allocated to you, particularly if you are purchasing an off-plan or new build property (by the developer, for example). This should not put you off conducting your own due diligence on the lawyer / law firm that will be undertaking the legal procedures on your behalf. Remember this is your money and you want to make sure that all procedures are carried out in a professional manner. Some issues to check include:

- Does the lawyer have a sufficient amount of experience of processing real estate transactions in Brazil (ask for genuine evidence / testimonials and if you can speak to previous clients);
- Post on forums such as the [Brazil Real Estate Network on Linked-in](#) or the [Brazil Property Community](#) and build your network (such as [through using social media](#)) to see if any other investors have had experiences of the lawyer / law firm;
- Ensure the lawyer is 'commercially' aware and fully understands the legal processes (for example by asking how long the average completion time is);
- Ask about the search process (Certidão de Ônus Reais) – ensure that all relevant paperwork will be completed in a timely manner;
- Ensure that the lawyer does not already have a large case load and your transaction will just be put to 'the bottom of the pile';
- Ensure you have full contact details (including a cell number);
- Get an idea of the transactional costs you should be paying by speaking to a few real estate lawyers;

In short, it is imperative that you are totally comfortable with the lawyer - occasions where things go wrong are very rare but, particularly if you are new to investing in Brazil, due care and attention is needed.

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7. Brazil Real Estate Lawyers / Notaries Obligations

Your lawyer will have to verify the authenticity of a number of certidões (legal certificates) which are processed through state courthouses and cartórios (formal registries). As a buyer, you should note that purchase and sale contracts vary from state to state and your lawyer will need to verify that they adhere to all federal, state and municipal laws. The main legal document that confirms the sale is the Escritura Publica de Compra e Venda (public deed of purchase and sale) and it is only when this is duly registered at the Cartório de Registro de Imóveis (Registry Office) that your property rights will be fully enforceable (more on this below). There have been occasional instances where the Escritura Publica de Compra e Venda has not been properly registered and therefore the rights of the new owner are deemed to be non-existent (usually due to a procedural error on the part of the lawyer) – although this will be covered by most title insurance policies.

As well as appointing a lawyer, you will be obliged to have an escribão or public notary (a government representative who reviews all documentation with regards to real estate transactions). There are a number of Brazilian legal stipulations that your legal team will have to adhere to:

- Article 236 of the Brazilian Constitution 1988 states that all notarial and registry services by private parties (law firms) are exercised upon delegation from the Brazilian government. Law no. 8,935 regulates article 236 of the Constitution by defining the nature and purpose of notaries and registrars serving the public, as well as their associated (and necessary) attributions and competence requirements:

Law Number 8.935 (em Português)
Law Number 8,935 (English Version)

- Law Number 7,433 of December 18th 1985 provides the requirements for drafting public deeds (escrituras públicas):

Law Number 7.433 (em Português)
Law Number 7,433 (English Version)

- Decree Number 93,240 of September 9th 1960 lists the documents necessary for the drafting of legal acts involving real estate transactions, including fiscal certificates and the payment of appropriate taxes:

Decree Number 93.240 (em Português)
Decree Number 93,240 (in English)

- The Brazilian Civil Code (Law Number 10,406 of January 10th 2002) also determines that a public deed (escritura pública) drafted by a notary is an authentic document and lists the information that a deed must contain (article 215):

Law Number 10.406 (The Brazilian Civil Code) (em Português)
Law Number 10,406 (The Brazilian Civil Code) (in English)

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8. Appointing a Power of Attorney

As you may be buying property from a distance (ie. not in Brazil) you may need to appoint the lawyer to act as a 'Power of Attorney' on your behalf. With this authority, your legal representative will be able to sign contracts, Deeds and other relevant documentation on your behalf. The necessary paperwork will be sent to you via registered delivery or you may find that the firm has an office close to you (more and more Brazilian legal organisations have offices in major cities of the world).

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9. Legal issues with regards to the 'Reservation Contract', 'Offer to Buy' or 'Preliminary/Promissory Purchase Contract'

Depending on the seller, you will highly likely be asked to sign one or more of the following to confirm that you are committed to the sale:

1) Reservation Contract (Contrato de Reserva) – With the majority real estate purchases in Brazil, you will be required to sign some kind of reservation contract (Contrato de Reserva) and place a deposit (approximately between \$2,000 - \$10,000US depending on the type/size of the transaction) in order to confirm your interest and for the property to be taken off the market. Particularly if you are new to buying real estate in Brazil – you should ensure that your lawyer reviews any paperwork prior to signing and/or transferring any funds. One particular clause to make sure exists is the one that states that if there are any legal issues which prevent the transaction from going ahead you will be entitled to a full refund. Similarly, if a problem occurs with the valuation of the property or encumbrances are found you should ensure that there are clauses that protect your rights. If you change your mind about going ahead, you should be prepared to lose the deposit. Also note that such instances will not be covered in most title insurance policies.

2) Formal Written Offer Letter (Carta de Oferta Formal por Escrito) – The alternative to a reservation contract is a formal written offer to buy a piece of real estate or land. Using an experienced lawyer will ensure that your position is protected. If /when your offer is accepted by the seller this letter will be deduced as being legally binding in the eyes of Brazilian law (and therefore should not be taken lightly).

3) Preliminary/Promissory Purchase Contract (Contrato Promessa de Compra e Venda) – The seller may request that you sign a Preliminary/Promissory Purchase Contract (Contrato Promessa de Compra e Venda) which is a legally binding contract to buy the property. It is followed by the full contract of sale – should you decide to not go ahead with the purchase you will lose any deposit paid and could face further action from the seller (depending on the contract stipulations). It is always recommended to ask an experienced lawyer to review this contract with a fine tooth comb, ensuring that all pre-sale contingencies are

stated clearly and your rights are fully explained to you. Once you have signed the Preliminary/Promissory Purchase Contract you will be required to pay a deposit (typically about 10% of the sale price). Also note that for property bought off-plan, the deposit is usually followed by a number of stage payments as the development progresses.

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10. Certidão de Ônus Reais (Registry Certificate)

This is a fundamental stage of the Brazilian real estate buying process which is essentially a title search and will require you to instruct your lawyer (advogado) to carry out the following two steps:

- 1) Apply for the Certidão de Ônus Reais (certificate of ownership) via the Cartório de Registro de Imóveis (Real Estate Registry Office) which will state the property's entire ownership history. There is at least one in every city and several in the large metropolitan areas (there are 18 in São Paulo, for example);
- 2) The Registry Office will have the specific matrícula (certificate) on file. This contains detailed description and relevant historical information with regards to legal, judicial as well as financial transactions pertaining to the property – it will be your lawyers job to go through the paperwork to confirm:
 - a. that the vendor actually owns the property and has the authority to sell it;
 - b. if there are remaining secured charges (such as a mortgage or other type of loan), easements, covenants and/or liens against the property as well as outstanding utility bills or taxes (note that these would have to be cleared before completion will be authorised);
 - c. that the property has a completely clear title.

For your information, Law Number 6,015 of December 31st 1973, defines the competence and conduct of the overall operation of the Registro de Imóveis; lists the acts that can be registered and provides the respective registration requirements:

Law Number 6.015 (em Português)
Law Number 6.015 (in English)

This process can take anything from 10 to 90 days depending on the complexity of the transaction (for example, should your Lawyer discover any pending charges, the necessary steps will have to be taken to ensure that they are settled before the final contract / deed of sale can be signed).

Similarly, if you are buying a plot of land - a survey will need to be undertaken in order to identify where its borders are as well as any jointly-owned spaces, rights of way etc. with other plots. You and your Lawyer will need to verify these documents to avoid any potential disputes in the future. The survey will also contain analysis of the land in terms of whether it has been classed as 'buildable' as well as any restrictions as to the level of storeys that can be constructed. There are, for example, many areas of coastal Brazil where local municipality authorities completely restrict the building of any type of property.

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11. Escritura Publica de Compra e Venda (Final Contract / Deed of Sale)

Your lawyer will discuss how you would like to sign the Final Contract/Deed of Sale (Escritura Publica de Compra e Venda) but, in most cases, a Power of Attorney will be used to act on your behalf. At this point you should ensure that your CPF number has been organised, the survey report has been completed, there are no issues with the Certidão de Ônus Reais and you have your bank account opened. The lawyer will conduct final checks on the proposed contract of sale to make sure its terms are fair and cover all of the necessary points to protect your interests as the buyer – this will include:

- the exact purchase price (including the method in which it will be paid and the date);
- the CPF number of each party;
- the registration number of the property being bought/sold;
- the list of fixtures and fittings included in the sale;
- the completion date when the deeds will be signed and the property transferred into your name;
- if you are obtaining a mortgage, the details will be stated in full.

You will receive a copy of the contract in English and your lawyer will liaise with the sellers legal team and subsequently arrange for a public notary (escribão) to prepare the final motions. As stated above, the law in Brazil states that contracts of sale witnessed and authorised by an escribão must be registered at the land registry – so they form a fundamental part of ensuring that your transaction is processed correctly. The notary will also undertake further title searches and ensure that any taxes are paid on time.

At the moment where exchange and completion is imminent and all the necessary paperwork is in place – the Final Contract/Deed of Sale (Escritura Publica de Compra e Venda) will be signed. At this juncture, any balance owed will need to be paid as well as the fees and taxes. Your lawyer will register your purchase at the Cartório de Registro de Imóveis (Real Estate Registry Office) where the property is located which will confirm your ownership in the eyes of Brazilian law (via a matricula which shows an extract of the selling and purchase contract). At this point, you will be handed the keys and can take full possession of the property.

The whole process of signing the Escritura Publica de Compra e Venda will take between 12 and 16 weeks although this can vary depending on issues that may crop up – for example with the title and/or notary searches; mortgage finance being delayed or issues with the seller's side. The entire procedure above must be undertaken in the correct manner according to the above and you must ensure that any related taxes applicable to the property are paid in order to guarantee your title ownership.

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12. Legal Checks if you are Buying 'Off Plan'

If you are purchasing property directly from a development company, your lawyer will undertake specific due diligence steps to ensure that the land is registered and the title of the land is clean of encumbrances. It is also highly likely that you would be required to pay a reservation fee and sign an agreement (which you may want to get checked by a legal specialist). It is necessary for your lawyer to ensure that:

- the developer has proper planning permission in place (known as a Solicitação de Licença Prévia);
- there are no existing liens on the land;
- the proper licences are in place for construction (certain areas may be protected);
- that the build is taking place on regulated land;
- the development company has legally completed its own incorporation process;
- the relevant checks are made with the architectural department of the municipality to ensure everything is complied with;
- the contract is fully prepared and the property's documentation is all in order (this will follow the same procedure as with any other real estate transaction);
- all Bank guarantees, building insurance and financial payment security for buyers (such as escrow accounts) are set up efficiently enabling the transaction to move smoothly;
- a solvency / credit check is undertaken on the development company and that they can provide adequate confirmation that the property will be handed over according to the terms and conditions stated.

The contract will be signed and initiated by all parties and will need to be legalised by the Brazilian Consulate to be binding. During the build process, subsequent payments may be due for which (as made in any prior agreement) you would be obliged to pay.

Towards the conclusion of the build, the developer will be required to have the fire brigade, environmental health, drains specialists and the planning office approve habitability and give the go ahead on completion of the project (also known as habite-se). You will be entitled to view these guarantees and should any issues arise, you will be advised by your lawyer – in most cases, problems as a result of these checks are quickly dealt with. Prior to the end of the build, the development company will receive a document known as a Averbação – a legal confirmation that all employment terms were met correctly. At this point, the development company would also have received authorisation from the Supreme Council of National Defense (Conselho de Defesa Nacional or CDN) – this will also ensure that you (as the new owner) would be exempt from any tax liability that is not your responsibility. The exchange of deeds is viewed as a 'formal event' and will require your presence or that of an appointed representative (power of attorney).

Lastly if you are purchasing an off-plan apartment you will need to make sure that (pre-completion) you fully understand your duties and obligations with regards to the terms of lease (such as maintenance payments, services charges and ground rents). Review these terms with your lawyer if you are in any doubt.

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13. Legal Information when Buying Real Estate Under a Foreign Company Name

Buying Brazilian real estate under a company name is one method that many choose to proceed with but you should bear in mind that the process will take longer due to the extra legal checks and procedures that will have to be followed (the process is different to that of acquiring a CPF). Should you still wish to go down this route, your lawyer will need to undertake the following steps:

1) The company will need to be registered at the Secretaria da Receita Federal and obtain a specific tax number known as a CNPJ (Cadastro Nacional de Pessoa Jurídica / National Register of Legal Entities). This is essentially a unique number that identifies a legal entity by the Internal Revenue Service of Brazil (an organ of the Ministry of Finance). This is a legal requirement if you are a company buying real estate or land and the registration documentation would have the following information:

- date of opening;
- company name / title;
- description of the main economic activity;
- description of secondary economic activities (where applicable); and
- the registration status (the Receita Federal will need to be contacted to establish what this is).

The registration documents are available for download online (note that this procedure is different to applying for a CPF and it would be recommended to request an experienced lawyer to assist you / the company).

CNPJ Download File (em Português) **CNPJ Download File (in English)**

The Company registration will have to be completed and sent via the internet using the Receitanet program (which, again, will need to be downloaded).

Receitanet Program Download

2) Once the tax number has been obtained, it is necessary undertake a formal procedure via the CADEMP (Cadastro de Empresas da Área). The company will then need to be formally registered at the Central Bank of Brazil (Banco Central do Brasil) who will require the following documentation:

- The 'Basic Entry Document';
- A certified copy of the company's constitutive act (by the Brazilian Consulate) - which will need to be translated into Portuguese and have the full company name; date of opening; legal nature; business nature and address);
- A certified copy of each of the Directors passports. As with the companies constitutive act, this will have to be certified by the Brazilian Consulate of the residents country;
- The full details of the lawyer who is acting on the company's behalf.

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14. Obtaining Title Insurance (Título de Seguro)

Despite vigorous checks undertaken by the large majority of law professionals in Brazil – occasions do occur where purchasers of real estate may end up liable for previous issues with the property or land. Examples include errors committed by clerks at the Cartório de Registro de Imóveis, forgery, survey errors, fraud, title flaws, hidden / undisclosed liens and encumbrances – most of these risks are noticed by lawyers, yet there are occasions where, due to unforeseen circumstances, issues are missed. Added to this is the fact that Brazilian property buyers and lenders rely on an opinion letter from the lawyer with regards to the security of the asset and there are occasions where such issues with the title only appear post completion.

One noteworthy example was an investor in the North East of Brazil who lost a significant amount of cash due to the discovery illegitimate children of the deceased seller claiming possession of the land and property. There have also been occasions where buyers have become liable for post completion environmental violations. When such rare occurrences have occurred, investors that have chose to take their legal representative to court are often faced with a lengthy and costly process (for which the outcome has usually not favoured them). Your lawyer will identify such risks when researching the property's title and ownership but it will be down to you to decide whether or not to accept the risks of unforeseen circumstances to avoid the possibility of substantial loss or damages.

It is generally recommended, therefore, to obtain title insurance as a means to protect your legal risks and ensure a clean title (it can be obtained relatively cheaply). You will find that most policies are fully underwritten to protect against any losses as well as the cost of litigation to defend against title claims; defects; encumbrances and compliance problems (such as zoning, codes and permits). Such policies have the added benefit of simplifying the legal requirements and due diligence processes undertaken by lawyers, lenders and credit rating agencies. Ensure that you are obtaining the policy from a reputable company and you read through its terms prior to signing. Some real estate investors choose to send the policy to a separate lawyer for added security.

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15. Will Arrangements

Once having taken ownership of the Brazilian piece of real estate and/or land you should check your existing will arrangements to ensure that your asset is protected should the worse happen. If you subsequently discover that your Brazilian property is not covered, you should consult the Law firm that have processed the transaction on your behalf. Indeed, many Brazilian law firms acting on behalf of foreign investors will offer this service anyway.

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16. Brazilian Legal Glossary

Below are some terms that you may come across when buying real estate in Brazil and their English definition.

| | |
|--------------------------------------|---|
| Averbação | A legal requirement for development companies that ensures that they have complied to employment law during the build process. |
| Advogado | A Brazilian Lawyer. |
| Banco Central do Brasil | National Bank of Brazil. |
| Cadastro de Empresas da Área | Department of Exchange and Foreign Capitals - a company that is buying real estate and / or land would be required to be registered through this body. |
| Cadastro Nacional de Pessoa Jurídica | National Register of Legal Entities - a unique number that identifies a legal entity by the Internal Revenue Service of Brazil (an organ of the Ministry of Finance). This is a legal requirement if you are a company buying real estate or land and the registration documentation would have the date of opening; company name/title; description of the main economic activity; description of secondary economic activities and the registration status (the Receita Federal will need to be contacted to establish what this is). |
| Cartório | A formal registry (various types exist in Brazil, for example marriage, public rights, employment etc.). |
| Cartório de Registro de Imóveis | Real estate and land registry office - there is at least one in every city and several in the large metropolitan areas (there are 18 in São Paulo, for example). |
| Carta de Oferta Formal por Escrito | A formal written offer to purchase the piece of real estate or land. If/when your offer is accepted by the seller this letter will be deduced as being legally binding in the eyes of Brazilian law (and therefore should not be taken lightly). |
| Certidão de Ônus Reais | This legal certificate is applied for (by your lawyer) via the Cartório de Registro de Imóveis (Real Estate Registry Office) and states the property and land's entire ownership history. |
| Certidão | A legal certificate / certification document. |
| Comarca | A territorial division (by state) of the lower level (trial) judicial system within which are individual municipal court systems. |

Conselho de Defesa Nacional or CDN

Prior to the completion of a development, the company will receive formal authorisation from the Supreme Council of National Defense for the build.

Contrato de Reserva

A reservation contract that confirms your interest in the piece of real estate and/or land and (meaning it will be taken off the market). There will also usually be a requirement to pay a deposit (approximately between \$2,000 - \$10,000US depending on the type/size of the transaction).

Contrato Promessa de Compra e Venda

A legally binding contract to the buy the property which followed by the full contract of sale, but, should you decide to not go ahead with the purchase, you will lose any deposit paid and could face further action from the seller (depending on the contract stipulations). It is always recommended to ask an experienced lawyer to review the contract with a fine tooth comb, ensuring that all pre-sale contingencies are stated clearly and your rights are fully explained. Once you have signed the Preliminary/ Promissory Purchase Contract you will be required to pay a deposit (typically about 10% of the sale price).

Desembargadores

The panel of three judges at the Tribunal de Justiça (see below).

Diários Oficiais Estaduais

Each Brazilian State has its their own Official Gazette with the latest relevant legal information and updates.

Diário Oficial da União

The Federal Official Gazette has been established since 1862 publishes information with regards to the activities of the legal system including: laws / legal acts; constitutional amendments; legislative decrees / other acts resulting from the legislative process; treaties / agreements; covenants / other international acts approved by the National Congress; decrees, provisional measures / other normative acts issued by the President of the Republic; Normative acts issued by Ministers of State opinions issued by the Federal Solicitor - General / the respective President's decisions; judgments / decisions by the Federal Court of Audit; Judicial Branch matters of a normative nature.

Escritura Publica de Compra e Venda

The Final Contract/Deed of Sale - this will need to be checked by a lawyer to ensure its terms are fair and necessary points are covered to protect your interests as the buyer (including the exact purchase price; the CPF number of both parties; the registration number of the property being bought/sold; the list of fixtures and fittings included in the sale; the completion date when the deeds will be signed; if you are obtaining a mortgage, the details will be stated in full.

Escritura Pública

Public deed of purchase and sale.

Habite-se

Legal assurance that a residential property is fit to live in, particularly from a health and safety perspective (a process undertaken by the local prefeitura).

Matrícula
at the Cartório de Registro de Imóveis

A certificate that contains a detailed description and relevant historical information with regards to legal, judicial and financial transactions pertaining to the piece of real estate or land (located at the Cartório de Registro de Imóveis) – it will be your lawyers job to go through it with a fine tooth comb to confirm.

Ordem dos Advogados do Brasil (OAB)

Brazilian Bar Association.

Secretaria da Receita Federal

The national tax authority of Brazil.

Título de Seguro

Title Insurance.

Tribunal de Justiça

Courts of second instance (also known as the 'Justice Tribunals' or 'Courts of Justice.'

Tribunal Regional Federal da 1ª Região

Court that has jurisdiction over the Federal District of the following 13 States: Acre, Amapá, Amazonas, Bahia, Brasília, Goiás, Maranhão, Mato Grosso, Minas Gerais, Pará, Piauí, Rondônia, Roraima and Tocantins.

Tribunal Regional Federal da 2ª Região

Court that has jurisdiction over the Federal districts of Espírito Santo and Rio de Janeiro.

Tribunal Regional Federal da 3ª Região

Court that has jurisdiction over the Federal districts of São Paulo e Mato Grosso do Sul.

Tribunal Regional Federal da 4ª Região

Court that has jurisdiction over the Federal District of Paraná, Rio Grande do Sul and Santa Catarina.

Tribunal Regional Federal da 5ª Região

Court that has jurisdiction over the Federal District of Alagoas, Ceará, Paraíba, Pernambuco, Rio Grande do Norte and Sergipe.

Recurso Especial

Also known a 'Special Appeal', they are granted at the Superior Tribunal de Justiça - when a judgement made by the Justice Tribunal (Tribunal de Justiça) offends a federal statute or when two or more different rulings have been made on the same federal statute.

Recursos Extraordinários

Also known as an 'Extraordinary Appeal', they are related to offences of the Brazilian constitution and are granted when when judgements of second instance courts (Tribunal de Justiça) violate the constitution.

Solicitação de Licença Prévia

A licence that is granted to a development company granting planning permission. If you are buying an off-plan property, your lawyer will need to check this in detail (and any associated encumbrances).

Supremo Tribunal Federal or STF

The Supreme Federal Court grants 'Extraordinary Appeals' (Recursos Extraordinários, see above).

Superior Tribunal de Justiça or STJ

The Superior Court of Justice grants what is known as a 'Special Appeal' (Recurso Especial, see above).

Tribunal Superior Eleitoral or TSE

Superior Electoral Court.

Tribunal Superior do Trabalho or TST

Higher Court of Labor.

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