

RENT WITH OPTION TO BUY

Accessing a home has become a feat, especially for the youngest who seek emancipation from the family home. Today we will talk about a modality that may be an ideal option that allows that the amounts paid for rent do not fall on deaf ears and serve, in part, for the future purchase of this same home.

The rental modality with the right to purchase (or with the option to purchase) is a double or mixed contract made up of two subcontracts, one for rent and the other for sale.

What is a rental contract with the option to buy?

This modality allows the tenant to live rented in the house for a certain time. At the end of the term, the tenant will have the right to buy the home for an agreed price and from which the rental income paid so far will be deducted, totally or partially.

There is no framework regulation that indicates under what specific conditions these types of contracts have to be developed, which are actually two: one for sale and one for rent. Although both are collected in the same document. Allusions are included in the Civil Code and in article 14 of the Mortgage Regulations, as well as in the Urban Leasing Law.

For this to be in force and as established by the Supreme Court, it is mandatory that, at least, two essential conditions of the sale are stipulated in it: the object of the contract and the price.

This means that the decision to acquire the home is transferred to the tenant after the marked rental years and the stipulated sale price for the residence at the time of signing the contract, in addition to the amount of the rental installments and the percentage to be deducted of the rental income in the event that the sale is made.



If an initial premium is provided, which is usual, the agreed amount of this must also appear. It is an amount that is paid to the lessor for the granting of the purchase option. In many cases, this amount is discounted if the purchase comes to fruition and is lost if it does not come to fruition.

Being a double contract, it is convenient that it clearly reflects all the conditions related to the lease and the purchase.

- **TAXATION**

This type of contract is subject to the Onerous Patrimonial Transfer Tax, and can give rise to different tax situations. If only the term and the price of the house are specified, during the lease, the tenant may deduct the rent and the owner must declare what he received. In addition, when the sale is made, the owner will have to declare that equity gain and, if applicable, the buyer will have to deduct it.

If the tenant pays the owner the premium for the right of the purchase option, the latter must declare that gain, although the former cannot deduct it.

- **ADVANTAGES AND DISADVANTAGES OF RENTING WITH THE OPTION TO PURCHASE**

This type of contract has a series of advantages and disadvantages for both the tenant and the owner. Let's see them in detail.

Advantages and disadvantages for the owner

Advantage:

- The owner obtains benefits from the first month as a result of the lease.
- It is the ideal way to take advantage of the property with great immediacy, also with the possibility of a future sale.
- The owner continues to have tax benefits for the lease.
- If the tenant finally decides not to buy the house, the owner will keep the money



from the premium that the tenant has paid for the right of the purchase option.

Disadvantages:

- Loss of time for the sale of the property. In the event that the owner wanted to get rid of the house by selling it, the tenant may finally decide not to acquire it.
- If the prices of the houses begin to rise during the rental period, the owner will not be able to change the price, since the purchase price is stipulated in the contract.
- During the time that the tenant remains in the house, the owner will not be able to sell it, even if he receives a higher offer.

Advantages and disadvantages for the tenant

Advantage:

- The rental price and the initial premium will be discounted (totally or partially from the final sale price). In this way, if the tenant must request financing, after the X years of rental agreed, the value of the bank's appraisal will be higher than the amount requested by the tenant since the remaining amount will be less than the initial one, in this way the tenant has a better chance of obtaining financing.
- If he finally has the necessary liquidity, the tenant has his purchase insured.
- You can choose to purchase at any time during the lease period.

Disadvantages:

- Loss of the premium paid at the beginning if you do not finally purchase the property.
- If during the term of the contract the prices of the houses fall, the tenant will not be able to benefit from it, since the prices are agreed at the beginning of the lease, also setting the sale price.
- The tax burden for the tenant is important. The contract is subject to double taxation for the Property Transfer Tax, for the rent and for the purchase option:

For the lease, the lessee is obliged to pay the tax by ITP within a maximum period of 30 days from the signing of the contract, the lessor being a subsidiary liable if the



tenant does not do so.

The purchase option will also be subject to the Property Transfer Tax, the taxable base being the price paid for the option, which has a period of 30 days from the signing of the private document to proceed with its settlement according to the applicable rate in each community autonomous.

One of the advantages of becoming emancipated and having your own independence is buying a property from yourself. Doing it through this formula is a great option to not lose the home of your dreams. Thus, during the time you are renting, you can save to be able to access your purchase.

Do you think that renting to own is a good option?

