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REAL ESTATE NEWS

August 2006



Land Assurance

Real Estate

Purchasing Titled Real Estate in Costa Rica

by Timothy Woodruff

Sometimes one hears that “buying titled land in Costa Rica is very different from the way it works ‘back home.’” Wrong answer! Assuming of course that home is the US, Europe, or Canada. Such a statement probably means that the person dispensing the advice is, at best, not a real estate professional, or, at worst, may have ulterior motives. That’s because the truth is that the process of buying real estate here should very closely mirror the way it happens “back home.” Of course, the languages will vary, as well as the letter of the local laws. But what really matters is that the legal principles associated with a safe purchase—and the procedures designed to protect them – are indeed very similar.

Before we turn to the legal principles, hovering over them all is the requirement of transparency. This is the key to any reputable deal. Everything good, bad or indifferent about the property should be disclosed by the sellers and their agent, if such items are relevant to the intended use or not. Also, there should be no hidden fees; everybody who gets paid at the closing should have his or her cards on the table, with the amounts they are charging agreed to in writing ahead of time. The commissions that will go to certain parties must also be spelled out in advance.

An example of a clear violation of the transparency rule is the practice of overpricing, also called net listing. The broker lists a property for a higher price than the true selling price, and tries to pocket the difference at the closing without the buyer ever realizing it. This is all-too common in Costa Rica.

However, a broker is only entitled to the standard, agreed-upon commission. This is usually 10% for raw land and can fall to as low as 5-6% for large deals or centrally located houses. But more important than the exact figure is that all the parties agree in advance to the nature and type of fees.

The critical legal principles and procedures include the following:

1st Principle: The land you are shown must correspond to the legal description on the title page in the Public Registry, as well as to the plat map which is inscribed in the “Catastro Nacional” (plat map registration bureau). With a small lot, this is pretty straightforward, but for large properties, it’s hard to be sure that you are getting what you were shown. **Procedure:** After walking the borders, and inspecting the title and plat map to be sure they correspond to each other and to what you were shown and told, you must hire a topographer to verify the borders, *before* (not after) you buy. If there is a discrepancy, it should be worked out prior to the closing. If your new survey is materially different from the old one, you should re-register your new survey over the old one, again, before the closing.

2nd Principle: When an offer to buy is accepted here in Costa Rica, just as in the US, the terms should be duly written up in a signed purchase agreement, and earnest money placed in escrow. At that point, the owner has a duty to sell to no one else and to honor the established price at the closing. **Procedure:** You get a written contract in the lawyer’s “*protocolo*” attesting to the terms of the offer and acceptance.

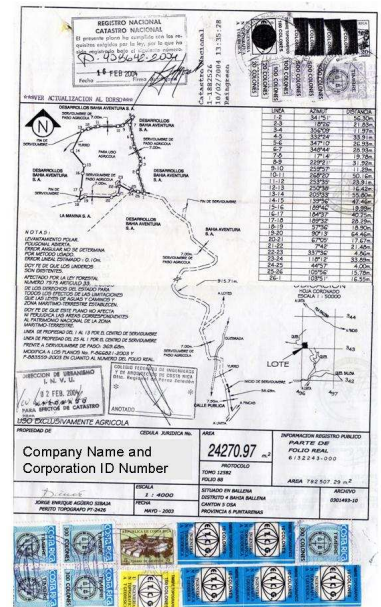
Your lawyer records this option in the National Registry, under the title page. That way, nobody can buy the property out from under you during the contract period without facing a loss in court. That’s because the buyer would not qualify as a third party good faith purchaser, thanks to the notice in the Registry of a pending sale.

3rd Principle: Ownership of real property is called fee simple absolute under US common law. The concept is the same here, although the name may be different. **Procedure:** The title to the property should already have been recorded in the National Registry, so that when you buy it, the ownership is transferred to your name or the name of your corporation (see sample registered plat map or *plano catastrado* in the adjacent column). Now nobody can try to claim it without due process, just as we are used to “back home.”

4th Principle: You must actively protect and/or use your land or you risk losing it to third parties (squatters). In Costa Rica this applies only to rural land, not houses or land in towns or cities. The US has similar laws, known as “adverse prescription.” **Procedure:** Putting up and maintaining fences and signs, having the property checked or patrolled on a regular basis, keeping the weeds down, and performing other signs of active ownership are all you need to protect you property from squatters; moreover, in the last five years or so, squatters have begun to lose consistently in litigation, as the courts increasingly recognize that valuable ocean view land should not be taken from a careless owner just so that someone can grow beans on it.

Inside this issue:

- Purchasing Titled Real Estate in Costa Rica* 1
- Featured Listings* 2
- Featured Listings* 3
- Land Assurance Information and Directions* 4
- Purchasing Untitled Real Estate in Costa Rica* 4
- Fun Corner* 4



Typical surveyor’s plat map (plano catastrado) full of valuable information and with all required stamps



La Perla 28 Ballena 1.3 hectares 3.14 acres

US\$ 180,000

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This property located in Ballena has amazing ocean and valley views, a nice creek, and three spacious building sites.

It is located in an eco-friendly gated community just south of the town of Uvita in an area known as Ballena. The building area has three different house sites, providing plenty of room for a guest house on the upper lot, a two leveled house on the lower lots, leaving room for a

nice yard, pool, garden, etc.

One of the borders is an accessible creek and from the house site there are views of the primary jungle above, ocean views below, which include views of the Osa Peninsula, Caño Island, and the Three Sisters which is part of the Ballena National Park.

This property is located in an area that is unique to the

world. Water is already in place, electricity is in the process of being installed and access is easy on the well maintained road. This property at the very least is a must see.

Casita de Campo Ciudad Neily 23.8 hectares 58.7 acres

US\$ 110,000

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This beautiful farm is only a short ten-minute drive from the full-service town of Ciudad Neily and lends itself ideally for livestock farming, horse husbandry, or reforestation.

The farm consists mainly of rolling hills and pasture land and has year round water, power lines and excellent drainage.

There are between three to

four natural building sites on the property, all of them with beautiful valley views. A creek runs right through the farm. Casita de Campo comes with a farmstead that needs some repair, a small corral and its own well, but there is also public water service available.

Ciudad Neily offers a number of services (bank, hospital, supermarket, gas station, post office) and the Panamanian

border with many shopping options is only a 30-minute drive away.

Golfito, the Golfo Dulce and the National Parks of Corcovado and Piedras Blancas, and the beautiful white surf beaches of Zancudo are all within reach.

Finca Cacao Platanillo from 2.4 hectares from 6 acres

from US\$ 110,000

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Finca Cacao offers five properties of varying sizes and is located at about 360m (1,200 feet) above sea level, which makes for a cool and comfortable climate. Each lot looks out over a gorgeous valley with the Barú River meandering through it as well as the Pacific Ocean.

Prices start at \$110,000 for one building site on almost 2.4 hectares (6 acres) and go up to

\$225,000 for 2 building sites (with possibilities for a third) on almost 4 hectares (10 acres). Each lot already has at least one building site in place and both water and electricity will be provided.

The main road connecting Dominical with San Isidro is just a 10 minutes drive away. The beaches of Dominical and the National Park Marino Ballena are within easy reach. While

Platanillo has some service infrastructure, San Isidro de El General is only a 45 minutes drive away and offers a wide variety of supermarkets, specialty stores and medical services.





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US\$ 3,300,000

**Hidden Valley Ranch
 Matapalo**
 130 hectares
 315 acres

This eminently developable farm is only minutes from the wide open, deserted beaches of the South Pacific. It is perched on a series of gentle ridges 500-800 ft. above sea level and 25-40% of the farm has gorgeous ocean and coastal views. You can watch the waves break on Playa Matapalo from there. The rest of the land is nestled in its own valley of rolling hills and mostly flat land which features

very nice mountain and valley vistas.

There are four spectacular ocean view sites on the ocean side of the farm and four more modest ocean view sites on the east side. The first four would be worth an average of \$250,000 in today's market, and the second four about \$150-175,000 apiece. In addition, on the west side there is a ridge that runs

parallel to the coast for one kilometer which supports another 20 ocean view sites. Finally, there are many valley and mountain view potential home sites located all over the east side of the farm. The River Matapalo runs through the property, and it also features numerous fresh springs and year round streams. Main power poles run right along the public road that divides the property for two kilometers.



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US\$ 700,000

**Vista de las Colinas
 San Buenaventura**
 47 hectares
 113.7 acres

This property has great ocean views, very nice valley views, easy access, 15 hectares of 10-12 year old hardwood trees, at least 17 potential housesites on gently rolling hills, 15 has. of primary forest (with three species of monkey), ample water, and yet it is located under 10 minutes from some of the finest beaches on the Pacific Coast.

Finca Vista de las Colinas is located 10 minutes south of Ojochal (a half hour south of Dominical), and just 30 minutes north of the airport in Palmar Norte (the site of the proposed international airport). It is close to all the amenities of Ojochal and Palmar Norte while remaining a very private valley **r e t r e a t .**

with a small creek at the bottom. One ridge has multiple house sites with great views of the Pacific, the Osa Peninsula and Isla del Caño. The other is covered with 15 hectares of well-maintained precious hardwood trees including Teak, Amarillon, and Ron Ron.

The farm consists of two ridges surrounding a private valley



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US\$ 190,000

**La Perla 18
 Ballena**
 1.55 hectares
 3.8 acres

La Perla 18 has a beautiful straight view onto the famous Ballena National Marine Park. There is lush greenery and a spectacularly beautiful tree on the property. It is located in the upper section of a beautiful eco-finca.

of being prepared with a balcony-like building site.

Finca La Perla is an eco-finca in the true sense of the word, with lots of lush greenery, but a good access road and its own water distribution system. Electricity lines are in the process of being pulled up all across the development now.

kilometers away and the full service towns of Uvita and Ojochal with all their restaurants, supermarkets and internet cafés are within easy reach.

There is a straight view out to the Three Sisters and the Ballena Rock, the most famous landmarks of the national park. The property is in the process

The coastal highway Costanera Sur is only a short two





Dominical · Puntarenas
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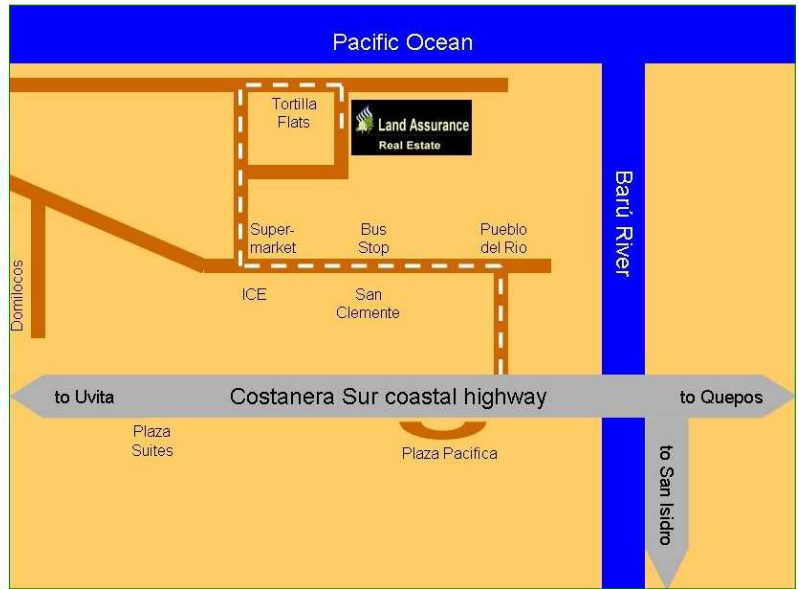
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opening hours

Monday to Friday 8:00am till 5:00pm
Saturday 8:00am till 12:00noon

This is where you find us



The offices of Land Assurance are tucked away on a side street in the middle of Dominical. Simply follow the discrete signs leading you from the Costanera Sur coastal highway to our offices.

Purchasing Untitled Real Estate in Costa Rica

Rural real estate throughout Costa Rica is often untitled. The land may have been settled, farmed and perhaps sold several times in the past with nothing more formal than a bill of sale (*carta de venta*). This is not necessarily an obstacle to purchase since the title may be acquired after purchase through a legal process known as *Información Posesoria* (Law Nº139 of July 14, 1941).

Minimum requirements to qualify for a registered title to possession land are a registered survey and documentation of peaceful, public and undisputed possession of the land for a period of at least 10 years. This procedure involves verifying the history of the real estate, its boundaries and the declarations of owners of adjacent land. Private documentation such as bills of sale recording the history of ownership is very useful for this process. To

accomplish title to possession land, a lawyer should guide the paperwork through the appropriate court, usually the agrarian court. He will present letters from all pertinent governmental agencies certifying that the property does not fall within the boundaries of National Parks, Indigenous Reserves, or other protected areas, and notarized statements from adjacent property owners attesting that the landholder is in fact in possession of the land and that they agree to the specified boundaries.

A judge's inspection of the land and review of all documentation are also part of the title process. It is a bureaucratic procedure that may take from six months to a year (possibly more) to complete; however, untitled land is usually less expensive than registered property so the time factor may not be of concern to some buyers. In some cases, the title process is even stated as a condition of the sale or escrow.

Fun Corner



Water on Mars



Man of the Year