

PRESS / MEDIA RELEASE

FINCA PARCS ACTION GROUP TAKE LEGAL ACTION AGAINST SPANISH DEVELOPER – CLEYTON GES SL AND THE FUNDING BANK OF THE DEVELOPMENT - CAJA DE AHORROS DEL MEDITERRANEO

5 AUGUST 2010 – FOR IMMEDIATE RELEASE

FINCA PARCS ACTION GROUP

- Off-Plan deposits paid by group in excess of 2 million Euros
- Buyers deceived
- Legally required Bank Guarantees not issued
- Developer and funding bank failed to act in accordance with Spanish Law, in particular, LEY 57/68 Article 1.1 and 1.2

SUMMARY

FINCA PARCS ACTION GROUP, currently consists of 63 purchasers on the Las Higuericas, Finca Parcs development, none of whom were provided with the legally required Bank Guarantees for their Off-Plan deposits. The developer, Cleyton GES SL abandoned the project in May 2009 stating that the project was 'financially unviable'. Over the past 2 years **FINCA PARCS ACTION GROUP** has listened to various promises of refunds from the developer, however to date nothing has materialised. The developer breached its contractual obligations, failed to comply with its legal obligation to provide Bank Guarantees and failed to honour its promises of issuing refunds to the group members, therefore, **FINCA PARCS ACTION GROUP** has been left with no option but to commence legal action against the developer and promotor of the project, Cleyton GES SL.

The main reasons for the legal action are:

1. To the best of our knowledge, no Building Licences (Licencia de Obras) issued for 3 of the 5 phases
2. Failure to provide Bank Guarantees as required by Spanish Law for the protection of amounts paid in advance by purchasers
3. Failure to deliver the properties and specific features of the project within the contractually agreed time

The group is also taking legal action against the developments funding bank, Caja de Ahorros del Mediterráneo (CAM Bank), the entity that accepted the off-plan deposits and that was contracted by the developer Cleyton GES SL to issue the Bank Guarantees. CAM Bank failed to comply with their legal obligations of verifying the existence of Bank Guarantees which is a clear violation of their obligations under Spanish Law, in particular, LEY 57/68 Article 1.1 and 1.2.

FINCA PARCS ACTION GROUP consists of individual buyers mainly from the UK, Ireland and Spain. Keith Rule, a Finca Parcs purchaser who has not received the legally required Bank Guarantee, formed the action group in 2009 after leading a smaller group of Finca Parcs purchasers since 2006. The group is legally represented by María Luisa de Castro, director of Costa Luz Lawyers and De Castro Gabinete Jurídico which consists of legal professionals including her father and two brothers. Costa Luz Lawyers and De Castro Gabinete Jurídico have been working exclusively on similar cases since March 2006. The legal team is being assisted by a Civil Law Professor (Catedrático) from the University of Seville.

The off-plan deposits paid by the group members for which the legally required Bank Guarantees were not issued total in excess of 2 million Euros. The deposit funds were paid to the Special Accounts opened by the developer Cleyton GES SL at the funding bank, Caja de Ahorros del Mediterráneo.

The deposits, which for some group members amount to the bulk of their life savings, were paid for off-plan reservations between 2004 and 2008.

FINCA PARCS ACTION GROUP member, Reg Matthews, 75, who reserved his Finca Parcs plot in 2006 comments: "The developer Cleyton GES SL and CAM Bank have taken my money, failed to provide my Bank Guarantee and failed to build my house that was originally promised for completion in 2008. My life has been on hold for the past 4 years, my dream of a house in the Spanish sunshine has been shattered and all I want now is my money back. The developer and bank should not be allowed to treat innocent people like this. I am shocked this type of thing can happen in an EU member country when there are laws and regulations in place to prevent such situations"

FINCA PARCS – CLEYTON GES SL & CAM BANK

The developer, Cleyton GES SL launched the Las Higuericas Finca Parcs development with the slogan 'The Real Spain' and in collaboration with CAM Bank began accepting off-plan deposits in 2004. The inland development, close to the village of Agramón, is around 15km from Hellin and 80km from Albacete and Murcia. The development was marketed predominately to UK and Irish buyers as a self contained sports and leisure resort. Built close to the Camarillas Lake there were due to be a total of 617 detached villas spread over 5 phases, many with private pools. Building Licences (Licencia de Obra) were issued for Phases 1 & 2 in March and October 2007, however to the best of our knowledge, the developer, Cleyton GES SL never applied for the building licences for Phases 3, 4 and 5, despite the fact that some construction actually took place on Phase 3 and ground works took place on Phases 4 and 5. The development was also advertised to include a commercial centre with 24 hour security, maintenance services, medical centre, shops and restaurants. Sports enthusiasts were to be catered for with promised facilities to include horse riding, fishing, swimming, canoeing, tennis and bowls.

However, in May 2009, 5 years after accepting the first off-plan deposits the developer, Cleyton GES SL abandoned the site with only 36 of the 617 properties completed. Hellin Town Hall refused to issue Habitation Certificates / Licences of First Occupation for any of the properties on the site as in their opinion the infrastructure was not fully completed. Therefore, no buyer was able to complete their purchase. As a result the site has been deserted since May 2009 except for the presence of a lone security guard.

The developer, Cleyton GES SL officially announced on 21 September 2009 that the development was cancelled due to the fact that it was 'financially unviable'. Cleyton GES SL then set up the Finca Parcs Refunds Process and refunds were promised to all those purchasers who were not issued with the legally required bank guarantees. Unfortunately Cleyton GES SL failed to provide any tangible evidence to show this process was genuine and on 5 March 2010 the Finca Parcs Refunds Process closed after failing to issue a refund to any purchaser.

COMPLAINT TO CAM BANK

Since 2006 **FINCA PARCS ACTION GROUP** has been pursuing the developer Cleyton GES SL to demand that they provide the legally required Bank Guarantees. In July 2008 the group submitted their first complaint to Caja de Ahorros del Mediterráneo, the projects funding bank that accepted the off-plan deposits. CAM Bank failed to acknowledge this initial complaint and in October 2008 the group referred the matter to the CAM Bank London Representative Office. In January 2009 the CAM Bank London Office advised the group to submit the complaint to the CAM Bank Head Office in Alicante. A complaint file in excess of 100 pages was delivered by courier to the CAM Bank Head Office in February 2009. After months of correspondence the group escalated the complaint to the highest level within CAM Bank – to the President - Modesto Crespo and the CEO – Roberto López Abad.

After receiving a totally unsatisfactory response from Messrs Crespo and López Abad the **FINCA PARCS ACTION GROUP** was left with no option than to commence legal action against the developer, Cleyton GES SL and the funding bank that accepted the off-plan deposits, Caja de Ahorros del Mediterráneo (CAM Bank).

The Director of the legal team in charge of this case, the Lawyer María Luisa de Castro says: "This is a large group of purchasers being led in a very professional and pro-active manner by the group leader Keith Rule. Our legal view is that CAM Bank has acted with a total lack of professional due diligence. Mr Rule has provided us with a dossier of evidence consisting of almost 500 pages"

WORRYING SITUATION

The group finds the situation all the more worrying due to the fact that since paying their off-plan deposits to Cleyton GES SL and CAM Bank for the Finca Parcs project, it has emerged that residents on another Costa Blanca development constructed and marketed by a company which included many of the same Directors/Administrators as Cleyton GES SL, are currently engaged in a battle to legalise their homes.

DECEPTION

Buying a property in Spain is a major decision and members of the **FINCA PARCS ACTION GROUP** have been deceived by the developer and selling agents due to the fact that all the advertising and promotional material including the Sales Agreements clearly stated that Bank Guarantees would be provided at every stage of the purchase process by CAM Bank.

A number of agents selling properties at Finca Parcs continued to entice potential purchasers during the period 2006 to 2008 by stating in their promotional material 'BANK GUARANTEES INCLUDED' when they knew categorically that many of the clients they had already sold plots to at Finca Parcs had not received the legally required Bank Guarantees.

FINCA PARCS ACTION GROUP will leave no stone unturned in their fight for justice.

FAILURE TO ISSUE BANK GUARANTEES - HUGE PROBLEM IN SPAIN

The situation in which members of the **FINCA PARCS ACTION GROUP** find themselves is similar to that being experienced by many thousands of off-plan purchasers in Spain. The failure of developers and banks to provide the legally required Bank Guarantees is a huge issue in Spain and the scale of the problem is becoming clearer on a daily basis.

Please see the accompanying document **THE SHOCKING TRUTH** for more information regarding Bank Guarantees according to Spanish Law – LEY 57/68.

Further details and photos can be found on the **FINCA PARCS ACTION GROUP** website at: www.fincaparcsactiongroup.com

Details of a Petition related to Bank Guarantees in Spain directed at Don Miguel Angel Fernández Ordoñez - Governor of the Banco de España (The Banco de España is the national central bank and supervisor of the Spanish banking system), Don José Luis Rodríguez Zapatero - Prime Minister of Spain and José Manuel Barroso - President of the European Commission can be found on the **BANK GUARANTEES IN SPAIN** website at: www.bankguaranteesinspain.com

Other related information can be found on:

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**on
Eye on Spain**

<http://www.eyeonspain.com/blogs/ley5768.aspx>



<http://www.facebook.com/pages/Spanish-Off-Plan-Property-Lack-Of-Bank-Guarantees-LEY-5768/134524803233863>

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THE SHOCKING TRUTH

LEY 57/1968 provides comprehensive protection for purchaser funds paid to the Promoter in advance for a property. The rights granted to the purchaser under LEY 57/68 are of a 'Caracter de Irrenunciabiles' (Inalienable Character) and are INDISPUTABLE.

However many persons and companies associated with the Real Estate and Construction Industry in Spain failed to comply with the requirements of LEY 57/68.

Some Promotors / Developers failed to comply with any or most of the requirements of LEY 57/68

Some Banks and Savings Banks are guilty of Gross Negligence and acted with a complete lack of professional due diligence. It must be remembered that these Banks and Savings Banks are supervised by the Banco de Espana and many also carry out their business in other countries including the UK.

Some Lawyers who were being paid by the Purchasers and had a legal duty to act in the Purchasers best interests failed to carry out the relevant checks to ensure their clients funds were protected at all times in accordance with LEY 57/68.

Some Estate Agents failed to carry out any checks on the Promotor or Developer prior to marketing the developments. Many also continued to advertise properties on developments where they knew the developer and funding bank were failing to comply with the requirements of LEY 57/68.

Some Estate Agents continued to entice purchasers by stating in their promotional material '**BANK GUARANTEES INCLUDED**' when they knew that many of the clients they had already sold to on the exact same development had not received the legally required Bank Guarantees.

This is a shocking situation and many thousands of innocent purchasers are at risk of losing their hard earned money due to the negligence and greed of some Promotors, Banks, Lawyers and Estate Agents.

The Banks & Savings Banks were the 'vehicle' through which the illegal activity operated.

The Banks & Savings Banks who were funding the developers were happy to use purchasers 'unsecured deposit funds' to lessen the Banks exposure to the various developments.

The fundamental problem is that the Spanish authorities failed to ensure compliance with LEY 57/68. For many years' developers, banks, agents and lawyers have been allowed to ignore the requirements of LEY 57/68.

Many of the lawyers and agents received much of their business from the developers and banks; therefore it was not in their interest to attempt to stop the illegal activity because by doing so they would be 'biting the hand that feeds'.

Many thousands of innocent purchasers have been robbed by the corrupt developers and negligent banks, lawyers and estate agents.

The Banco de Espana has also failed to regulate and monitor the activity of the Banks & Savings Banks with regards to accepting off-plan deposits. The Spanish legal system has failed to uphold the INALIENABLE RIGHTS granted to the purchaser under LEY 57/68.

The Spanish Government must also be held accountable due to the fact that for years they have ignored this problem and have failed to take the appropriate action.

The Banks, Savings Banks, Banco de Espana and the Spanish Government must collectively accept responsibility and must act immediately to ensure that by whichever means all purchasers who were not provided with the legally required Bank Guarantees receive a FULL refund of their deposit together with the addition of legal interest.

The Spanish Government together with the Banco de Espana must ensure that all those persons and entities who failed to comply with the requirements of LEY 57/68 and all those who were complicit in the illegalities are punished accordingly.

Legal action is now being taken by many purchasers according to LEY 57/68 Article 1.2 and justice must be done in these cases if Spain wishes to go some of the way to repairing its badly damaged reputation in relation to the Real Estate and Construction Industry.