



LEGAL TAKE

— PROJECTS · GUIDE

Investing in Kenyan Real Estate: A Guide for Foreign Investors

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Foreign investors can own Kenyan property, but only on leasehold of up to 99 years, and agricultural land is largely closed to them. Most risk in a Kenyan purchase sits in the title and the paperwork, so the order you do things in matters as much as the price.

KEY POINTS

- Non-citizens hold land on leasehold of up to 99 years.
- Due diligence comes before any payment.
- Budget for 4% stamp duty in urban areas and 15% capital gains tax on sale.

What a foreign investor can own

Leasehold only. Non-citizens can hold land on leasehold for a term of up to 99 years. Freehold is reserved for Kenyan citizens.

Companies count as foreign unless wholly Kenyan. A company is treated as a citizen only if it is wholly owned by Kenyan citizens.

Agricultural land is restricted. Sales and leases of controlled agricultural land to non-citizens are generally not approved by the Land Control Board, unless an exemption applies.

Apartments come with sectional titles. Units are now registered as sectional titles under the Sectional Properties Act, 2020.

Buying property: the steps

- 01 Agree the deal in principle.** Settle price, payment terms and what is included, subject to due diligence.

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- 02 Do the due diligence before paying anything.** An official search, the seller's identity and authority, charges and court orders, rates and land rent — and a surveyor's check of beacons, size, access and reserves.
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- 03 Check approvals for off-plan purchases.** The developer's title, planning and building approvals, and how your deposit is protected.
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- 04 Sign the sale agreement with your lawyer.** Payment plan, completion date, default and dispute resolution.
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- 05 Complete and register.** Consents, valuation for stamp duty, payment of duty, and registration in your name.
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In Nairobi, Murang'a and Mombasa, searches and registrations now run through Ardhisa, the government's online land platform. Elsewhere, much of the process is still manual, which affects timelines.

Protecting yourself as a buyer

Most problems in a Kenyan purchase can be found before money moves. Our purchaser checklist covers:

The full chain of title. Not only the current title, but the ownership history and the seller's authority to sell, whether the seller is an individual, a company, an estate or a family holding.

Interests that are not on the title. Spousal rights, succession and beneficiary claims, people in occupation, rights of way and other overriding interests.

Survey against title. Acreage, beacons and access checked against survey plans and the registry index map.

An agreement that fits the risks. Conditions tied to consents and clearances, a deadline for each, and the right to walk away with your deposit refunded if they are not met.

Control of the money. Deposit and purchase price held as stakeholder until completion conditions are met, and clear, time-bound undertakings where a lender or the seller's advocates are involved.

A plan for registry delays. Where time matters, agree in advance what happens if registration takes longer than expected.

Taxes on buying, owning and selling

TAX	WHO PAYS	RATE	WHAT TO KNOW
Stamp duty on transfer	Buyer	4% urban, 2% rural	On the higher of price and government valuation. Collected by the Ministry of Lands. First-time buyers under the Affordable Housing Scheme are exempt.
Stamp duty on company shares	Buyer	1%	Where property is bought by buying the company that owns it.
Capital gains tax	Seller	15% of net gain	Transfers to a registered family trust are exempt.
VAT	Seller charges	16%	Commercial property. Residential sales generally exempt; going-concern transfers exempt since 2024.
Residential rental income	Resident landlord	7.5% of gross rent	Annual rent of KES 288,000 to KES 15 million, filed monthly.
Rent paid to non-residents	Tenant withholds	30%	Non-resident landlords without a permanent establishment in Kenya.

Choosing how to hold the property

HOLDING	HOW IT WORKS	CONSIDER
In your own name	Simplest to set up and register.	Passes under your will or through probate, which takes time.
Jointly, as joint tenants	Co-owners hold the whole together; on death, the survivor takes it.	Suits spouses; you cannot leave your share by will.
Jointly, as tenants in common	Each co-owner holds a defined share.	Shares pass under each owner's will; agree in writing how decisions and exits work.
Through a company	The company owns the property and you own the shares.	Easier to bring in partners or pass on shares; a company is foreign unless wholly Kenyan-owned.

HOLDING	HOW IT WORKS	CONSIDER
Through a family trust	Trustees hold the property for your family.	Avoids probate for the property; transfers into a registered family trust can qualify for tax relief.

After you buy

- **Register with KRA** and keep rental income filings up to date.
- **Budget for running costs:** county rates, land rent, service charge and insurance.
- **Appoint a property manager** if you will not be in Kenya, with authority and reporting agreed in writing.
- **Plan for succession.** A company or trust can make property easier to pass on, with tax and control consequences.

COMMON MISTAKES WE SEE

- Paying a deposit before the search and survey are done.
- Relying on a copy of the title instead of an official search.
- Buying agricultural land through a nominee or an ineligible company.
- Buying off-plan without checking approvals or how deposits are held.
- Releasing the purchase price before registration is secured.

TALK TO US

Every situation is different. This is where we get specific to yours.

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