

Reservation Contract

The reservation contract is a contract that assures the purchaser, for an agreed period of time, can reserve the property. During this period it is not possible for the seller or for the real estate agency – relating to the real estate in the contract – to sell it to anybody else.

The objective of such a contract is to provide to the eventual purchaser enough time to check the legal and factual position of the real estate and, if necessary, to ensure that the purchaser can check if the financial means for the purchase are available.

Usually the contract is formed by depositing the reservation fee. The size of the fee is not specified by law, or any other legal regulation, but usually it varies from 20 000,-CZK to 200 000,-CZK for a dwelling unit depending on the purchase price. It is paid in cash at the time of signing the reservation contract. It is recommended that the purchaser check whether the payment of the reservation fee – at completion – is subsequently counted as part of the purchase price.

Now we reach the first potential pitfall – the conditions under which the reservation fee is returned to the interested party. Such conditions usually cover legal defects, such as existence of right of lien, real burdens (rights of users) or, for example, issues with leases and factual defects (for example the fact that the roof of a house needs repair). There are no stipulated conditions for the negotiation of the aforementioned conditions. Therefore, it specifically depends upon what conditions are agreed within the contract. Ideally, a successful contract is represented by the return of the fee in the event that a purchase contract is not signed.

It could be recommended that one of conditions for the return of the reservation fee includes the failure to agree the wording of the subsequent contract (Purchase Contract or Future Purchase Contract). Generally it is necessary to point out that there would be different conditions for different types of real estate.

What should the contract include?

Whilst negotiating a reservation contract, it is necessary to pay attention to several elements that should be included in the contract. Firstly, the contract should stipulate the period for which the real estate is reserved to ensure that it cannot be sold to anybody else. The seller, or third party agent, should enable the purchaser to check the legal and factual issues surrounding the real estate. The contract should provide for the preparation of a contract and, ultimately, provision of financial means for the purchase (e.g. mortgage credit).

The seller, usually the third party agent, (e.g. real estate agency) should unconditionally confirm that the specified real estate, within the contract, cannot be sold or offered for sale to anyone else during the period.

The contract should include the size of the reservation fee, as agreed by all parties, conditions for the return of the fee and inclusion of the fee in the purchase price of the real estate.

In the instances where purchasers are informed, during negotiations about real estate purchases, that the submitted reservation contract is standard and cannot be changed (even if you are not satisfied by any part of such a contract), then it is necessary to assess objectively the importance of any modifications to the text. In the case that no modifications are possible (eg concerning return of reservation fee), then it is recommended that purchasers consider contacting another real estate agency and search for a different property. In so doing, you will not needlessly risk the forfeiture of a reservation fee and/or suffer other disappointments. Last, but not least, it is

necessary to make sure that the person with whom you conclude the reservation contract(i.e. the person who will take your fee), in the event that no purchase contract or future purchase contract is concluded, is such a person who would return the fee as the basic condition of the contract. Therefore it is recommended to be diligent when selecting such a person, before you commit to pay a not insignificant reservation fee.

Finally it is necessary to point out, quite firmly, the fact that caution and prudence in life usually pay off, and not just in relation to real estate.