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Local lawyer wins landmark case

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Expat residents battling the Spanish legal system over property issues will be delighted to hear that one British man has won a four year fight in a case that sets a legal precedent and opens the doors for hundreds of people to have lost money reimbursed.

Los Balcones-based lawyer Ruth Lopez Morueco (pictured left) has taken Chris Wakeling's case from the courts of Orihuela, to Alicante and finally Supreme Court proving that banks must honour bank guarantees and wining Chris his initial investment, plus interest and legal costs totalling more than 200,000 euros.

The new legal resolution stipulates that the bank, as legal guarantor of funds has to be responsible for and return the funds on failed developments where the property

developer is unable to do so through financial bankruptcy. Claims can be made with no statute of limitations so cases as old as ten and 15 years may now be made.

In July 2005 Chris paid a 50 percent deposit on a property at Santa Ana, Jumilla. The development was due to be completed in two years and included around 1,500 properties. Six months after the completion date the developer, San Jose Inversiones y Proyectos Urbanísticos, admitted financial difficulties and went into

voluntary liquidation. A meeting of property owners offered two choices on a majority decision basis with the outcome being that people would receive 65 percent of their money back. However, as time went on this agreement was never honoured.

Initially Chris struggled to find affordable legal representation with many lawyers asking for tens of thousands up front. This additional financial outlay meant many expats could not afford to fight for their money in court. Chris was one of the lucky ones,

hiring former Madrid-based lawyer Ruth Lopez of Morueco Abogados who offered affordable representation.

Chris said: "There is no doubt this was a big risk at the time. Further financial commitments were really tough. Often I would have to scrim, save and sell things to pay Ruth but I always believed I was in the right. Ruth was never greedy and only asked for reasonable costs."

Initially Ruth took Chris's case to Orihuela court. She knew that by the time most bankrupt developers had paid the tax man, the social security and the bank there was never anything left for the buyers themselves. However, she believed that banks should be held responsible where they had acted as official guarantor on a development. The bank argued that Chris did not have the official certificate of guarantee and had accepted a lower offer. Ruth took the case to regional court in Alicante and finally Supreme Court, counter-claiming that Chris was never provided with a certificate by the developer and that he had no choice as

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BITE SIZE NEWS:

Conflict over sports provision in Torrevieja

The councillor for sport, Pablo Samper, has sent out a press release challenging the claims made by Miguel Cano, PP councillor in Torrevieja. The remarks were made by Councillor Cano during a press conference and have caused concern amongst the sporting population of the town.

Councillor Samper denies that there have been difficulties with the paying of sports subsidies to the sports clubs in the town. He states that all sports subsidies have been approved and some of them have already been paid. March is the usual month during which payment of the subsidies is received. Accusations had been made that Pablo Samper had not been available to clubs raising queries about the dates of payment and had not made himself accessible to those wanting more information.

Pablo Samper strongly refutes the accusations being made by the PP and considers that they are part of a campaign to misinform people. He suggests that this is in the wake of the number of accusations there are against the PP nationally and the cases of corruption that are emerging.

Awarding contracts in Torrevieja

The town council continues in its quest

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It was a majority decision and this hadn't been honoured anyway.

Ruther said: "The climate changed with the economic downturn and banks were no longer seen as angelic or invincible. Suddenly they had to be more accountable for their actions and newspapers were full of their shortcomings."

Supreme Court success

Finally after four years the Supreme Court issued a new doctrine on the 57/1968 Law allowing buyers to recover their money even if they voted in favour of a Creditors Agreement in a bankruptcy procedure and do not have a copy of the bank guarantee.

This landmark decision couple with a similar recent judgement

set a legal precedent that will open the door for thousands of expats who find themselves in a similar situation. This includes those fighting Corvera Golf & Country Club and Trampolin Hills.

Asked how he feels now he has won his case and a considerable chunk of money Chris jokes that he'll feel better when the check arrives, but says the whole process has been exhausting.

He said: "Hopefully others will not have to go through what I have experienced."

Banks will now have no choice but to honour bank guarantees without argument or question. It's an amazing result and I hope everyone who has a case now comes forward and claims what has always been rightfully their money."



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