

# Practical Tips for Investing in Real Estate in Romania: a Case Study



By Dan Borbely, Partner and Head of Real Estate practice group

## Subject Matter

An investor contemplates acquiring a complex of buildings with the destination of retail & office, erected on a private land, while the exterior parking places are located on a land conceded by the local council.

The lease agreements on both the retail premises and the office premises have already been concluded by the vendor during the construction phase and shall fully come into force (the actual occupancy by the tenants shall occur) after the completion of the construction.

### What steps should the investor take before concluding the transaction?

1. As the vendor is a vehicle company the investor should always extend the legal due diligence on the corporate status of the vehicle company, with a specific emphasis on the approvals of the transaction by the corporate governance bodies of the vendor. A common "disease" of such approvals is that they are drafted in very broad terms, and therefore the purchaser is advised to request, as a condition precedent to the completion of the transaction, a decision of the extraordinary meeting of shareholders of the vendor approving the specifics of the transaction.

2. In case the buildings subject to sale are made out of two sections (a refurbished part and newly built section), the investor should examine very carefully the provisions of the design agreement concluded by the vendor with an architectural design company and the provisions of the construction contract with the entrepreneur. These agreements should provide for all general reps and warranties, as well as for the detailed

contractual liability of the architect and entrepreneur.

3. The investor should check if there are any pending claims for the restitution of the owned land (pertaining to the buildings) and the concession land (pertaining to the parking) by the former owners, based on the restitution laws.

4. Most of the times, the construction of the buildings is proved to be financed by a banking institution. It is recommendable for the purchaser to refrain from executing the transaction underlying document until the bank gives its approval on the transaction and to withhold the price payment until the assets are released from under the mortgage.

5. The legal review should also address the concession agreements entered into by the vendor with the city hall. The concession land is normally supposed to be used for building by the titular of the project (the vendor) as parking sites. The buyer should as for satisfactory guarantees that, after the sale-purchase of the retail & office buildings, the city hall will transfer the concession agreements to the new owner of the building, as well.

6. Another key point of concern of the purchaser is related to the final quality of the finishing of the building, as they are under execution at the negotiations time. The vendor is usually requesting the purchaser to express its firm commitment to purchase the buildings and to pay down part of the price into an escrow before the end of the finishing working. In this case there should be guarantees that, once the agreement's signed, the vendor will not cut-off costs and deliver bad quality finishing.

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- Bucharest Business Park: € 50,000,000
- Millenium Business Center: € 40,000,000
- Basarabia Project and Splaiul Independentei Project: multi-million euros
- Sebastian Project: multi-million euros
- Casa Mosilor Project and Jules Michelet Project: multi-million euros

### Contact us

Victoriei Square  
4-8 Nicolae Titulescu Ave.  
America House, West Wing, 8<sup>th</sup> Floor  
Sector 1, 011 141, Bucharest

☎ +40 (21) 204 8890

☎ +40 (21) 204 8899

✉ office@tuca.ro

🌐 www.tuca.ro