Property Ownership (Real Estate)

Vanuatu became independent in 1980, at which time all the lands in Vanuatu were reverted to ‘custom ownership’ type of land.

The Land Reform Act allowed prior holders of freehold land to convert their interest to leasehold. This had to be carried out within a three-year period from independence. As such, most prior freehold owners retained their interest through long-term leasehold interests either directly from the government or from custom owners (where they could be identified).

Accordingly, all investments and privately held lands in Vanuatu (apart from custom land and public land) are leasehold in nature. Generally, the leasehold term is 50 or 75 years.

Title is guaranteed, and the Land Leases Act covers all aspects of ownership and registration, with the register being paramount. Land titles are effectively based on a form of Torrens system with indefeasibility of title.

Annual rentals under these leases are not overly burdensome and so, it is an attractive concept to purchase land in Vanuatu, as the policy of the government through the lands department is flexible in being able to renew leases at the request of the lessee upon payment of a small premium.

Annual rentals are normally reviewed every five years and in accordance with the guidelines, which generally provide no surprises to the lessee as to any increase.

Where custom owners are unable to agree as to who is the custom owner of the land, provision is made for the Minister to act on their behalf to ensure that there is no prejudice against lessees when dealing with their land and to ensure a relatively stable land investment scenario.

Major Property Legislation

The major property legislation in Vanuatu is:

- Land Leases Act [CAP 163]
- Land Reform Act [CAP 126]
- Strata Titles Act [CAP 266]

In recent years, Vanuatu has enacted the strata title registration. Commercial and residential developments can be set up incorporating a strata title form of development under a special ‘strata title lease’ underlying the whole of the development, but otherwise in the similar manner as strata title operates in countries such as New Zealand and Australia.

This has become very popular in recent years and has attracted more investors to the country who are looking for an overseas holiday home or for hotels, seeking to maximize their tourist facilities.

Foreign Ownership

For any foreign investors looking to purchase land in Vanuatu, they must first recognize that the ownership of land will be a leasehold interest and secondly, that they are entitled to rely on the register when checking title, ownership and encumbrances.

There are no regulations preventing foreign individuals or corporations from buying land in Vanuatu.

In addition, foreign trusts and superannuation funds may buy properties in Vanuatu, and this has been an increasing trend over the last few years.

It should be noted that for some 30 years after independence, there are still ‘custom owner disputes’ (generally in rural areas) and therefore, it is advisable to utilize professionals within the country to ensure that the title is clear and that there will be no impediments to such purchase, as it relates to custom ownership. While the register is paramount from a practical point of view for a foreign owner, in particular, if looking for a holiday home or commercial development outside the main centers, it is important to ensure that you are aware of any possible disputes in the area, which could affect the tenure of the land as opposed to the title itself.

Generally speaking, however, because land is a leasehold interest, properties are available at lower prices than they might be in other countries. Vanuatu has experienced a surge in interest in holiday developments as a tourist destination in the past ten years, resulting in a healthy real estate environment both for local and foreign investors.

In summary, a foreign investor looking at Vanuatu property:

- is not required to be a resident;
- is not required to obtain any form of license;
- is not prevented from owning property in Vanuatu as to a leasehold-registered interest; and
- is subject to the same laws and regulations as any local purchaser of real estate.

Commercial Property Operations

While there is no restriction on foreign individuals or corporations purchasing land or businesses in Vanuatu, there are regulations covering investments that are specifically not real estate for private use, but real estate for commercial operations.
Vanuatu Investment Promotion Authority Approval

Businesses or individuals who are not ‘ni-Vanuatu’ are required to obtain approval from the Vanuatu Investment Promotion Authority (‘VIPA’) for their investment. Such application must generally, among other items, set out who the applicant is and submit passport particulars, police clearances and a general business outline, as well as either the existing business or commercial venture—inclusive of land—they are buying or the new venture they intend to set up.

Further information can be found at www.investinvanuatu.com.

In general, it is recommended that a purchaser seek the assistance of a professional lawyer/accountant or other service provider in making such application and for the purposes of obtaining advice; however, there is the option of dealing directly with the VIPA office.

Business Licenses

Before considering investment in Vanuatu, you need to know that there are some reserved investments that could not be taken up by foreign corporations or individuals because they are reserved for the locals only. The list of these reserved investments can be seen on http://www.investinvanuatu.com/. The authorities may consider departure from these in the case of a very substantial investment in the country, and these restrictions need to be looked at carefully before considering any investment in the country.

Costs of Buying Property

Because there is no personal and corporate income tax payable in Vanuatu, the country relies heavily on duties.

There is a fee of 7% payable to the government on the purchase of real estate (represented by 2% stamp duty and 5% registration on value).

If purchasing the shares in a company that owns real estate, the stamp duty payable is 4% on value and, as such, investors will often consider buying the company that owns the land. Many properties in Vanuatu are held in company names.

Taxation

Vanuatu has no corporate or personal income tax.

If you choose to rent a property full time, you will pay a rent tax of a maximum of 15% per annum.

If you enter into business or commercial operation, you will normally be liable for value added tax (‘VAT’).

Value Added Tax

At present, VAT is calculated at 12.5% standard rate.

Generally, for commercial property or businesses, if sold as a going concern, the transaction will be zero-rated. In the event that you are entering into any contracts that involve a business or a commercial property of any sort, it is wise to take advice to ensure that you would not be suddenly liable for an extra 12.5% on the price you are paying.

Banking

Vanuatu is well serviced by four trading banks: ANZ Bank (Vanuatu) Limited, Bred (Vanuatu) Limited (a French bank), Westpac Banking Corporation and the National Bank of Vanuatu. Such banks are available to the public, included for the purpose of lending to foreign individuals or corporations. As the land is a leasehold interest, generally, the equity requirement will be greater than it may be in a jurisdiction with freehold land, although this depends upon the applicant and the bank.

Customers may open bank accounts in various banks in multicurrencies and in any major currencies. Common foreign currencies in which banking accounts are opened include AUD, NZD, USD and EUR. However, other currencies may be utilized by the customer for this purpose, as required. Many property and business transactions take place in foreign currencies, but the local currency is VUV.

The exchange rate for VUV is based on a basket of currencies and generally remains reasonably stable as the basket includes USD, AUD, EUR and NZD; hence, it tends to flow with those currencies as an average of all of them. Accordingly, it has been stable for years.

In summary, for the purpose of any investment in Vanuatu:

- All lands are leasehold. The lessors are the ‘custom owners’ as approved by the Ministry of Land, and all lands are zoned:
  - residential;
  - commercial and tourism/commercial;
  - industrial;
  - agricultural; and
  - special use.

- All titles are generally 50 or 75 years and generally renewable. Annual rentals vary from VUV 17,743 – 177,453 (USD 188 to 1,880) per annum, with special rentals for major developments such as hotels.

- There is no corporate or personal income tax in Vanuatu; the country instead relies heavily on customs duty.

- There are no exchange control regulations for the inward and outward flow of funds.

- No regulatory approvals are required to purchase land for personal use, but VIPA approval is required for commercial and business operations, whether involving property or not.
The following websites may be of use for review by any intending investor in the country:

- VIPA – www.investvanuatu.org;
- Immigration (Residency etc.) – www.governmentofvanuatu.gov.vu;