

## UNIT 6: MORTGAGES

In this lesson you will:

- Learn about the main components of a mortgage deed
- Look at some of the problems with mortgages
- Learn to interpret and translate into Spanish clauses from a mortgage deed

### **A. What is a mortgage?**

Read the following introductory text in Spanish, with the main vocabulary about mortgages. (adapted from Alcaraz, Campos & Miguez, *El inglés jurídico norteamericano*, Barcelona, Ariel)

La hipoteca es el préstamo con caución (*secured loan*) más empleado en la compra de viviendas (*homes*), ya que permite que quienes tengan poco crédito personal (*personal credit*) puedan adquirir una vivienda, ofreciendo ésta como garantía del préstamo (*security for the loan*). En la hipoteca, el prestatario, llamado aquí “deudor hipotecario” (*mortgagor*), que puede ser un particular (*individual*) o una empresa (*business*), pide prestado dinero (*borrow money*) utilizando sus bienes raíces (*real estate*) como garantía (*security*). El “acreedor hipotecario” (*mortgagee*) es normalmente un banco, una compañía de seguros (*insurance company*) o entidad de ahorro (*savings and loan association*). Uno de los significados de “hipotecar” (*mortgage*) es que el bien raíz (*real estate, property*) del deudor hipotecario (*mortgagor*) queda gravado (*encumbered*) con un derecho real (*legal interest*) por parte del acreedor hipotecario (*mortgagee*), que le permite vender el bien raíz si aquél no cumple con la obligación (*if he fails to fulfill his obligation*) de devolverle (*repay*) la cantidad prestada (*the loan*).

En el plan de amortización (*schedule of payments*) de la hipoteca todos los pagos son constantes (*constant payments*); el dinero de los primeros (*the early payments*) se destina (*are destined*) en su mayor parte al abono de intereses, pero con el paso del tiempo casi todo se aplica (*is applied*) a la devolución (*repayment*) del capital. Desde el punto de vista de los intereses, los préstamos se clasifican en préstamos de interés fijo (*fixed-rate loans*) y préstamos de interés variable (*variable-rate loans*); el primero garantiza (*guarantees*) el mismo interés (*interest rate*) durante la vida del préstamo (*the life of the loan*) y el segundo varía de acuerdo con el valor del dinero en el mercado.

Entre las leyes que protegen al prestamista y al prestatario, una de las más conocidas es la protección de los derechos de los consumidores (*consumers' protection*) que necesitan solicitar un préstamo (*require a loan*), sobre todo, los hipotecarios (*mortgage loans*), es *The Truth in Lending Act* o *TILA* (Ley de Transparencia en Operaciones de Crédito). Esta ley exige al prestamista (*lender*) que revele (*disclose*) al prestatario (*borrower*) la verdad sobre todos los costes (*costs*) de los préstamos, de los cuales, los dos más importantes son las cargas financieras (*finance charge*) y el TAE o tasa anual equivalente (*APR or annual percentage rate*). En las cargas financieras (*finance charge*) están incluidos los intereses (*interest*), las tasas por el servicio bancario (*loan fees*) y las primas (*premiums*) de los seguros de vida, de accidente, de salud o de pérdida en la renta anual (*life, accident, health or loss-of-income*). Como el TAE o tasa anual equivalente se determina (*is determined*) por medio de una fórmula matemática compleja (*by using a very complex mathematical formula*) que resulta confusa al consumidor (*confusing to the consumer*), la ley le exige al prestamista que exprese el TAE exacto (*state the exact APR*), con el fin de que el consumidor pueda negociar su préstamo en la entidad

bancaria que le resulte más beneficiosa para sus intereses.

Now read the following text, which describes the components and conditions of a mortgage.

Possibly the largest debt you'll ever take on, a mortgage is a loan to finance the purchase of your home. Your home is collateral for the loan, which is also a legal contract you sign to promise that you'll pay the debt, with interest and other costs, typically over 15 to 30 years.

If you don't pay the debt, the lender has the right to take back the property and sell it to cover the debt. To repay the debt, you make monthly installments or payments that typically include the principal, interest, taxes and insurance, together known as PITI.

Principal and interest comprise the bulk of your monthly payments in a process called amortization, which reduces your debt over a fixed period of time. With amortization, your monthly payments are largely interest during the early years and principal later.

Before the principal is financed you can give the lender a sum of cash called a down payment to reduce the amount of money that will be financed.

In addition to your principal and interest, your mortgage payment could include money that's deposited in an escrow or trust account to pay certain taxes and insurance.

Generally, if your down payment is less than 20 percent, your lender considers your loan riskier than those with larger down payments. To offset that risk, the lender sets up the escrow account to collect those additional expenses, which are included in into your monthly mortgage payment.

**Taxes** -- The taxes are property taxes your community charges, based on a percentage of the value of your home. The tax is generally used to help finance the cost of running your community, for instance, to build schools, roads, infrastructure and other needs. You must pay property taxes even if you don't need an escrow account and even after your mortgage is paid off.

**Insurance** -- Lenders won't let you close the deal on your home purchase if you don't have home insurance, which covers your home and your personal property against losses from fire, theft, bad weather and other causes. Even if you pay cash for your home, you should buy home insurance unless you can afford to repair or rebuild your home if it's damaged or destroyed.

If your home is in a federally designated high flood risk zone within a flood plain and you are signing for a federally insured loan, federal law mandates that you must buy flood insurance. If you are not in a high flood risk zone, you still may buy the coverage.

If you put less than 20 percent down on your home purchase, most lenders will also charge you private mortgage insurance (PMI) premiums. The coverage doesn't protect you, it protects the lender from you defaulting on the mortgage. Without the coverage, many buyers could not otherwise afford to buy a home. Effective for loans signed on or after July 29, 1999, lenders must automatically cancel PMI when your mortgage balance shrinks to 78 percent of the home's original purchase price.

(from <http://www.lesbianhomes.com/mortgages.htm> )

**1. Find in the text words and expressions corresponding to the following definitions:**

\_\_\_\_\_ : the sum of money you borrowed to buy your home.

\_\_\_\_\_ : what the lender charges you to use the money you borrowed. It is usually expressed as a percentage.

\_\_\_\_\_ : Insurance taken out to protect the value of the property against fire, theft and other perils.

\_\_\_\_\_ : Movable property (as opposed to real property, such as land, which is permanent); includes furniture, automobiles, equipment, cash and stocks.

\_\_\_\_\_ : An account often required by the lender to pay taxes and insurance. Every time a mortgage payment is made, a portion goes into this account. When the taxes and insurance bills are due on your home, the lender pays the bills with funds from this account.

## 2. Now, give the English term for the following technical words and expressions in Spanish:

entrada / primer pago

garantía

cuota

cobertura

robo

riesgo de inundación

saldo de la hipoteca (cantidad pendiente de pago)

## 3. Say if the following statements are true or false, according to the text

\_\_\_ A mortgage can be used to finance, either the purchase of a home, or repairs carried out at such home.

\_\_\_ The usual duration of a mortgage is between 15 and 30 years.

\_\_\_ Mortgage instalments consist of principal and interest

\_\_\_ Mortgages with little or no downpayment are considered risky by lenders

\_\_\_ Home insurance is compulsory in order to obtain a mortgage

\_\_\_ Cash purchasers should not take out home insurance

\_\_\_ Some homes may require extra insurance depending on where they are located

## 3. Now, translate the following sentences into English.

Las hipotecas son normalmente la deuda más grande de una familia, y los pagos mensuales constan de principal e intereses; en algunos países también incluyen impuestos y la cuota del seguro.

Las entidades de crédito a veces tienen una cuenta de garantía bloqueada. En esa cuenta los deudores hipotecarios depositan dinero para pagar las primas del seguro y los impuestos; eso permite a las entidades proteger el valor de la vivienda.

El seguro de vivienda cubre la vivienda y sus bienes ante siniestros causados por fuego, robo o inclemencias del tiempo, y si su vivienda es destruida el seguro pagará la hipoteca o la reconstrucción.

En algunos países, el seguro de hipoteca sólo es necesario si el principal es más del 80% del precio de la vivienda.

## B. Problems with mortgages: when something goes wrong

Read this brief introductory text in Spanish (**adapted from Alcaraz, Campos & Miguelez, *El inglés jurídico norteamericano*, Barcelona, Ariel**)

Los intereses del acreedor hipotecario no entran en juego (*do not come into play*) a menos que el deudor hipotecario incumpla sus obligaciones (*defaults*), en cuyo caso solicitará la ejecución de la hipoteca (*foreclosure*). Esta ejecución es un procedimiento judicial (*legal proceeding*) que conduce a la extinción (*expiry*) de los derechos del deudor hipotecario (*the mortgagor's rights*) que no hizo frente a las obligaciones convenidas (*failed to meet the obligations agreed*) sobre la finca hipotecada (*on the mortgaged property*), mediante una resolución judicial (*court decree*) que ordenará la venta pública (*public sale*) o subasta (*auction*) de los bienes. La subasta al mejor postor (*to the highest bidder*) en la que se vende la finca hipotecada se llama *foreclosure sale* (venta judicial hipotecaria o venta por juicio hipotecario) y está dirigida por un funcionario público (*conducted by a public official*).

Now, read this text in English.

In the late 1980s and early 1990s many homebuyers borrowed large amounts of money, due to the extremely high prices in the soaring property market. But as house prices increased, borrowers were trapped squeezed between fast rising interest rates and massive unemployment. As a result, the number of repossessions reached an all-time record. Still in 1998, an average of 650 households a week were losing their homes through repossession.

High rates of mortgage repossession continue to be a major social problem in Britain. Between 1990 and 1998, a total of 454,280 households, containing 1.3 million adults and children, experienced mortgage repossession. Although the number of repossessions peaked in 1991 at 1,453 households a week, in 1998, 650 households a week were still losing their homes in this way.

After repossession, people can stay with family or friends for a while, but will also need to find long-term accommodation that you can afford. Their options may include buying another property, asking the local council for help because they are homeless, renting from a private landlord, applying for a permanent council or housing association place, or moving into a housing co-op or supported housing. If they have a low income and move into rented accommodation, they may be eligible for housing benefit.

If you buy another property while you still have an outstanding debt to your previous lender, it may be able to put a 'charge on your new home' and claim part of the proceeds when it is sold. If the court made a money judgment when your previous home was repossessed, there is no time limit for when your previous lender can do this. If you are in this situation, get advice.

You will have to tell any lender that you apply to that your last home was repossessed, so getting a new mortgage may be difficult. It may be worth applying to a few different lenders, but you will have to tell them if your previous application was refused. A specialist mortgage broker (such as an independent financial adviser) may be more likely to find a lender who is willing to give you a mortgage. However, in many cases you will have to provide a larger than normal deposit, and may be charged higher than normal interest rates.

(adapted from <http://england.shelter.org.uk/advice/advice-2913.cfm> )



**1. Complete the following sentences, using a word belonging to the same word family as the one given at the beginning, as in the example.**

Example:

AGREE: The proprietors have reached an **agreement** to build a kidney-shaped swimming pool. (SPANISH EQUIVALENT: **acuerdo**)

- a) POSSESS: If your previous home has been \_\_\_\_\_, you may have trouble asking for a mortgage in the future (SPANISH EQUIVALENT: \_\_\_\_\_)
- b) RISE: \_\_\_\_\_ interest rates left people unable to pay their mortgage instalments (SPANISH EQUIVALENT: \_\_\_\_\_)
- c) HOME: If you are \_\_\_\_\_, you can ask the local council for help. (SPANISH EQUIVALENT: \_\_\_\_\_)
- d) JUDGE: If the court made a money \_\_\_\_\_ when you were repossessed, there is no limit on the time that can pass without the lender chasing you. (SPANISH EQUIVALENT: \_\_\_\_\_)
- e) TENANT: It is usually quite difficult to obtain a \_\_\_\_\_ if you have a previous history of repossessions. (SPANISH EQUIVALENT: \_\_\_\_\_)

**2. Answer the following questions:**

- a) Why did people apply for such large mortgages in the 1980s?
- b) Was there any factor, not related to the property market, which increased the number of repossessions in the 80s?
- c) What is, as a rule, the first option for someone after losing their home?
- d) Is there any public help for those people who have been repossessed and have low income?
- e) If you are still in debt with your previous lender, why should you not buy another home?
- f) When you apply for a mortgage after having been repossessed in the past, what may happen?
- g) Why do you think that lenders may increase the interest rate and the deposit in such situations?



**3. Complete the following paragraphs with the words you are given in each case. When you have finished, translate the whole paragraph to make sure that your options are correct.**

borrower, foreclosure, forced, legal, owner, property

\_\_\_\_\_, known in Britain as repossession, is a \_\_\_\_\_ process by which a \_\_\_\_\_ in default under the terms of a mortgage ceases to be the \_\_\_\_\_ of the mortgaged \_\_\_\_\_. This usually involves a \_\_\_\_\_ sale of the property at public auction with the proceeds of the sale being used to reduce or clear the mortgage debt. (adapted from <http://www.britishmortgagesabroad.com/glossary.html> )

agreement, amount, effort, extreme, financial, judges, orders,

Repossession \_\_\_\_\_ are only made in the most \_\_\_\_\_ and hopeless cases, where a borrower has made absolutely no \_\_\_\_\_ to remedy a grave situation. In most cases, \_\_\_\_\_ will assess the \_\_\_\_\_ position and suggest the \_\_\_\_\_ to be paid each month. Provided you fulfil that \_\_\_\_\_, the court is highly unlikely to order possession against you in the near future. (adapted from <http://www.evictstop.com/repossession-advice/repossession-prevention.shtml>)

debt, history, lenders, mortgage, register, repossessions

People with a history of \_\_\_\_\_ problems often find it difficult to get a tenancy or \_\_\_\_\_. They usually check your credit \_\_\_\_\_ with credit reference agencies such as Experian and Equifax. Most mortgage \_\_\_\_\_ will also check the “possessions \_\_\_\_\_” operated by the Council for Mortgage Lenders, which gives information about \_\_\_\_\_ by any its members during the last six years. (adapted from <http://northernireland.shelter.org.uk/advice/advice-4260.cfm>).

#### **4. Now, translate the following sentences into English.**

Como los precios en el mercado de vivienda eran muy altos, los compradores pidieron prestado mucho dinero; después, los tipos de interés subieron y muchas personas perdieron su puesto de trabajo.

Los embargos por hipotecas son un gran problema en muchos países. Las familias pierden su vivienda, y sólo pueden permitirse alquilar viviendas de baja calidad.

Después del embargo, si todavía hay una deuda pendiente la entidad de crédito puede intentar obtener el dinero de la venta de la nueva vivienda.

Los prestatarios con historial de embargos normalmente tienen que aportar una entrada más alta, y tienen que pagar tipos de interés enormes.

### C. A few clauses from a mortgage deed.

Translate the following paragraphs into Spanish. In order to do so, remember that “translating” means producing an equivalent text in Spanish, or in other words, that your text must have all the characteristics of a mortgage deed in Spanish.

**MORTGAGE DEED<sup>1</sup> ((adapted from Alcaraz, Campos & Miguelez, *El ingles jurídico norteamericano*, Barcelona, Ariel)**

This Mortgage is given by John and Jane Doe,<sup>2</sup> hereinafter called Borrower<sup>3</sup>, of<sup>4</sup> 19 Woodpecker Crescent, Peoria, Ill. to<sup>5</sup> All-American Bank, hereinafter called Lender,<sup>6</sup> which term includes any holder of this Mortgage,<sup>7</sup> to secure the payment<sup>8</sup> of the PRINCIPAL SUM of \$100,000,<sup>9</sup> together with interest thereon<sup>10</sup> computed on the outstanding balance,<sup>11</sup> all as provided in a Note having the same date as this Mortgage,<sup>12</sup> and also to secure the performance<sup>13</sup> of all the terms, covenants, agreements, conditions and extensions<sup>14</sup> of the Note and this Mortgage.

In consideration of the loan<sup>15</sup> made by Lender to Borrower and for the purpose expressed above,<sup>16</sup> the Borrower does hereby grant and convey to Lender,<sup>17</sup> with MORTGAGE COVENANTS,<sup>18</sup> the land with the buildings situated thereon<sup>19</sup> and all the improvements and fixtures now and hereafter<sup>20</sup> a part thereof,<sup>21</sup> being more particularly described in Exhibit A

<sup>1</sup>. *MORTGAGE DEED*: Escritura de hipoteca.

<sup>2</sup>. *This Mortgage is given by John and Jane Doe*: la presente hipoteca es constituida por John and Jane Doe (nombres supuestos).

<sup>3</sup>. *hereinafter called Borrower*: en adelante la parte prestataria.

<sup>4</sup>. *of*: residentes, domiciliados en.

<sup>5</sup>. *to*: con.

<sup>6</sup>. *hereinafter called Lender*: en adelante el acreedor hipotecario.

<sup>7</sup>. *which term includes any holder of this Mortgage*: término que se aplica a cualesquiera titulares de la presente hipoteca.

<sup>8</sup>. *to secure the payment*: destinados a garantizar el pago.

<sup>9</sup>. *PRINCIPAL SUM of \$100,000*: un principal de 100.000 dólares.

<sup>10</sup>. *together with interest thereon*: más los intereses correspondientes a dicha cantidad.

<sup>11</sup>. *computed on the outstanding balance*: calculados sobre la cantidad pendiente.

<sup>12</sup>. *all as provided in a Note having the same date as this Mortgage*: todo según lo dispuesto en el Memorándum que lleva la misma fecha de la presente hipoteca.

<sup>13</sup>. *performance*: cumplimiento.

<sup>14</sup>. *of all the terms, covenants, agreements, conditions and extensions*: todos los términos, pactos, acuerdos, condiciones y prórrogas.

<sup>15</sup>. *In consideration of the loan*: A cambio del préstamo.

<sup>16</sup>. *for the purpose expressed above*: con el objeto que consta anteriormente.

<sup>17</sup>. *Borrower does hereby grant and convey to Lender*: la parte prestataria por la presente cede y transfiere al acreedor hipotecario.

<sup>18</sup>. *with MORTGAGE COVENANTS*: mediante unos pactos hipotecarios.

<sup>19</sup>. *the land with the buildings situated thereon*: la parcela, con las edificaciones que en ella se encuentran.

attached hereto<sup>22</sup> and made a part hereof<sup>23</sup> and having a street address of 2534 E. Blacklidge, Tucson, Arizona 85710.

Property Description: [...]

Borrower further covenants and agrees that:<sup>24</sup>

1. [...]

2. Borrower will make with each periodic payment due under the Note secured by this Mortgage a payment sufficient to provide a fund from which the real estate taxes,<sup>25</sup> betterment assessments<sup>26</sup> and other municipal charges which can become a lien against the mortgaged premises<sup>27</sup> can be paid by Lender when due.<sup>28</sup>

3. In the event that Borrower fails to carry out the covenants and agreements set forth herein,<sup>29</sup> the Lender may do and pay for whatever is necessary<sup>30</sup> to protect the value of and the Lender's rights in the mortgaged property<sup>31</sup> and any amounts so paid<sup>32</sup> shall be added to the Principal Sum due the Lender hereunder.<sup>33</sup>

4. As additional security hereunder,<sup>34</sup> Borrower hereby assigns to Lender, Borrower's rents of the mortgaged property,<sup>35</sup> and upon default<sup>36</sup> the same may be collected without the necessity of making entry upon the mortgaged premises.<sup>37</sup>

<sup>20</sup>. *and all the improvements and fixtures now and hereafter*: así como cualesquiera mejoras e instalaciones fijas, existentes o futuras.

<sup>21</sup>. *a part thereof*: que sean parte de los mismos.

<sup>22</sup>. *being more particularly described in Exhibit A attached hereto*: que se describen con más detalle en el Anexo A al presente documento.

<sup>23</sup>. *and made a part hereof*: y que forma parte del mismo.

<sup>24</sup>. *Borrower further covenants and agrees that*: Además, la parte prestataria acepta y da su consentimiento a las siguientes condiciones.

<sup>25</sup>. *real estate taxes*: impuesto sobre bienes inmuebles.

<sup>26</sup>. *betterment assessments*: plusvalías.

<sup>27</sup>. *which can become a lien against the mortgaged premises*: susceptibles de convertirse en gravamen sobre la vivienda hipotecada.

<sup>28</sup>. *can be paid by Lender when due*: puedan ser satisfechos por el acreedor hipotecario a su vencimiento.

<sup>29</sup>. *In the event that Borrower fails to carry out the covenants and agreements set forth herein*: Caso de que la parte prestataria incumpliera los pactos y acuerdos aquí recogidos.

<sup>30</sup>. *the Lender may do and pay for whatever is necessary*: El acreedor hipotecario puede emprender cualesquiera acciones y realizar cualesquiera pagos necesarios.

<sup>31</sup>. *to protect the value of and the Lender's rights in the mortgaged property*: a fin de proteger el valor de la finca sujeta a hipoteca, así como los derechos del acreedor hipotecario sobre la misma.

<sup>32</sup>. *any amounts so paid*: cualesquiera cantidades abonadas en tal concepto, destinadas a tal fin.

<sup>33</sup>. *shall be added to the Principal Sum due the Lender hereunder*: se sumarán al principal que ha de abonarse al acreedor hipotecario.

<sup>34</sup>. *As additional security hereunder*: En concepto de garantía adicional.

5. In the event that any condition of this Mortgage or any senior mortgage shall be in default for fifteen (15) days,<sup>38</sup> the entire debt shall become immediately due and payable at the option of the Lender.<sup>39</sup> Lender shall be entitled to collect all costs and expenses, including reasonable attorney's fees incurred.<sup>40</sup>

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<sup>35</sup>. *Borrower hereby assigns to Lender, Borrower's rents of the mortgaged property:* por la presente la parte prestataria cede al acreedor hipotecario las rentas obtenidas por la finca hipotecada.

<sup>36</sup>. *and upon default:* en caso de impago.

<sup>37</sup>. *the same may be collected without the necessity of making entry upon the mortgaged premises:* podrá procederse al cobro de las mismas sin necesidad de entrar en la finca hipotecada.

<sup>38</sup>. *In the event that any condition of this Mortgage or any senior mortgage shall be in default for fifteen (15) days:* En caso de incumplimiento de cualquiera de las condiciones recogidas en la presente hipoteca o en cualquier otra de superior importe, y de que dicho incumplimiento se extienda durante quince días.

<sup>39</sup>. *the entire debt shall become immediately due and payable at the option of the Lender:* el acreedor hipotecario podrá, a su discreción, exigir el pago inmediato de la totalidad de las cantidades adeudadas.

<sup>40</sup>. *Lender shall be entitled to collect all costs and expenses, including reasonable attorney's fees incurred:* Asimismo, el acreedor hipotecario podrá exigir el pago de todos los gastos efectuados, en los que se incluyen minutas de abogados por una cantidad razonable.