

Do I risk being gazumped?

In a dynamic market, yes. The risk of this can be reduced by being in a position to proceed with a purchase quickly (see Question 12). A formal agreement, written in the Romanian language and signed before a Romanian notary, is required to transfer ownership of Romanian property (see question 10). It can take some time to prepare for this, particularly where due diligence enquiries are carried out on the property and the title. It is therefore common for the parties to conclude a pre-agreement relatively quickly and to deal with the formal notarised agreement transferring ownership of the property later. The purpose of the pre-agreement is to commit the seller to sell to the purchaser for the agreed price once the purchaser's lawyers have confirmed that the title to the property is satisfactory. Until the pre-agreement is signed, there is no deal and each party is free to withdraw. If one of the parties breaches a pre-agreement which has been signed before a notary, such as by unjustifiably refusing to sign the formal sale-purchase agreement to transfer ownership of the property, the other party may seek an order from the court which transfers ownership of the relevant real estate. Contractual penalties (as opposed to damages) are also commonly used in Romania. If the pre-agreement is registered with the Land Registry, this will be prima facie evidence of bad faith where the owner has purported to sell the property to a third party, allowing an application to be made to the court for the sale to the third party to be annulled. Litigation in Romania can however be slow, costly, stressful and time-consuming. In general, our advice would be to try to be in a position to complete the transaction as quickly as possible to reduce the risk of being gazumped.