

IF YOU HAVE OR HAD A MORTGAGE ON A SPANISH PROPERTY YOU MIGHT BE ENTITLED TO REIMBURSEMENT OF YOUR MORTGAGE COSTS

On 23 December 2015, Spain's Supreme Court ruled that mortgage clauses introduced by Banco Popular and BBVA that forced borrowers to pay for all fees associated with taking out mortgages were abusive. The court further ruled that the banks should pay for all or at least part of these expenses, because lenders - not owners - are the ones who benefit from the incorporation of the mortgage.

The bank's reaction

Following the ruling, Santander, BBVA, CaixaBank, Bankia, Sabadell and Ibercaja have changed the wording of their clauses so that around 30% of these associated fees are paid by the bank, in order to prevent further claims. But this does not prevent claimants from claiming refunds in respect of loans previously granted.

If you are or were a homeowner in Spain who paid the full amount of the fees arising from your mortgage arrangement below are some helpful tips.

Who is eligible?

The Supreme Court's ruling affects everyone who is currently paying a mortgage or who paid it off up to four years ago. It is advisable to submit the claim to the bank's ombudsman or claims department first, and then to the courts if no amicable solution is reached. The deadline for filing a claim is four years after the Supreme Court's ruling, this is December 24, 2019.

Those who have already paid off their mortgage, can claim a refund if full payment was made four years prior to the ruling, this is on or after December 23, 2011. The ruling applies to individuals only, not corporate borrowers, and to primary residences and holiday homes.

What fees can be claimed?

The fees to be claimed are those paid for the notary, the mortgage, land registry and *gestoría* (so long this was imposed by the bank) around 2.5% to 3% of the amount loaned.

Is AJD recoverable?

Some claimants have also asked for a refund on the stamp duty (AJD) but the lower courts have not been unanimous.

What documents are required to file a claim?

The mortgage deed, the notary, registrar and *gestoría's* invoice, and the tax form evidencing payment of the AJD duty (form 600).

Do you want to instruct us to handle your claim from our London office?

Please fill out our [contact form](#), or simply email us at london@scornik.com or call us on 02074040987.