



# Portuguese timeshare guide



**A comprehensive guide to  
Portuguese timeshare**



# PORTUGAL

This is my happy Motherland, beloved of mine

**10 million** Population

79th most populous country on earth

**11** Provinces

Capital : Lisbon

Currency : Euro (EUR)

Languages : Portuguese, Mirandese

## EUROPE



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# introduction

Timeshare has a bad reputation. This reputation isn't always entirely deserved although clearly there are problems with Timeshare. Many people enjoy their timeshare and have done for many years. They have enjoyed many holidays at their resort. The problems with timeshare are not often the product itself but the way that it is sold and the way that it is run in subsequent years.

## **Selling tactics**

Often when timeshare is sold the salesperson will use high pressure tactics to close the sale. Often buyers will be told that the special offer that is being put forward is only available until the end of the day and after that the price will go up. This is rarely the case. Sometimes clients are taken to different locations with no way of getting back to their hotel and are submitted to many hours of high pressure selling. Often clients are subjected to long presentations without any food but are given alcohol. Time and time again we speak to people who say that they simply signed the contracts to buy just to get away from the sales presentation. This is particularly the case when the clients are elderly and are more easily pressured by salesmen.

## **Another tactic is to lie about what is being bought. The most common lies that we hear of are;**

1. "Of course your timeshare is a good investment and will go up in value."
2. "With this you can go and stay anywhere in the world for the same price".
3. "We will guarantee to buy it back from you in X number of years"
4. "You will be able to rent it out for more money than the maintenance fees"
5. "The maintenance fees won't go up"
6. "If you don't sign today the price will go up"
7. "If you don't sign today then we are not allowed to sell to you at the same price"

### Maintenance fees

Maintenance fees have increased dramatically over time. We regularly speak to people who started off with a couple of hundred pounds a year for maintenance and are now paying around £1,000. Regularly we speak to people who are paying £500 per week that they own. If you own several weeks this can easily mount up to huge annual bills - particularly if you don't actually use your timeshare!

We are increasingly seeing clients who are being pressured by resorts to pay maintenance escalating fees. Some resorts have employed debt collection agencies to chase payments. We have even seen some cases where resorts have actually issued proceedings against clients. Some resorts have taken the view that they will go over the top in collecting maintenance fees because that way word gets around that they are difficult to deal with and therefore the other owners don't even attempt not to pay.



# problems in exiting timeshare

There are many scams that have sprung up as people want to get out of timeshare. Sometimes clients have been caught by several scams on the trot.

## **The Buy Sell Scam**

This is where you are told that you can exit out of your timeshare if you part exchange it for another product. You are assured that this is not timeshare. In reality you often end up paying thousands of pounds and end up with the new product and still have your timeshare. The new product is rarely what was stated and is sometimes even actually timeshare.

## **The Upsell**

You are told that nobody wants to buy your timeshare but if you buy some more then it will be more valuable and it will be possible to sell. In reality you buy more and end up in the same position but several thousand pounds poorer and a bill for even more maintenance.

## **The resale scam**

You are told that a company can sell your timeshare for you. You pay them several hundred pounds to advertise it and no sale ever materializes. Of course if you pay some more money they can advertise it again for you....

## **The fictional buyer**

You are contacted out of the blue by a company who says that they have a buyer for your timeshare. The price is much more than you would expect and is often more than you paid for it in the first place. The buyer has even paid a deposit! All you need to do is to pay some money for fees, taxes or some other reason and you will receive a cheque for the sale. The money is paid to the sales company and you hear nothing more. In reality there never was a buyer.

## ....problems in exiting timeshare

### **The Class Action Scam**

You are contacted by a company claiming to act on behalf of hundreds or thousands of clients who are taking a class action against RCI or the resort. You are asked to pay some money to join the Class Action. In reality there is no class action and you have just lost all the money that you paid over to the callers.

### **Phantom cancellation**

This is similar to the Buy Sell Scam. You are told that a company can cancel your ownership at a timeshare if you simply buy one of their products. They will then take control of cancelling your timeshare for you. In reality you end up with a new product and still have your existing timeshare.



# warning signs that indicate a scam

## **Buying something else**

Often timeshare owners are told that there is a way out of their timeshare and that all they need to do is to buy another product. They are then told that the timeshare will be cancelled when the new transaction takes place. There should be no need to buy another product in order to get you out of your timeshare. If you are being told that you do then they are just trying to sell you something else. What happens if the timeshare is not cancelled? You may end up with two products instead of just one.

## **There is already a buyer**

Some timeshare owners are contacted out of the blue to let them know that a buyer has been found for their timeshare. They are often told that the buyer has already paid a deposit or even the full price. Nobody really starts to market your timeshare without knowing that the timeshare is still for sale. Similarly no buyer is going to part with a deposit before the seller confirms that the timeshare is still for sale and agrees the price. In these cases there is no buyer and the “deposit” is simply a hook to get you to send them money

## **Costs don't make sense**

In most scams there is some reason why you have to send some money. This could be for taxes, government fees and the like. You are told that these need to be paid in order to effect the transfer. In most cases these costs are made up and this is simply a way of extracting money from you on the premise that there is a buyer. In most cases there is no buyer and the fees, taxes or costs do not exist.

## **Pressure**

If you are being pressured into doing something you have to ask yourself why. Reputable companies do not need to pressure you into using their services or selling you their products. There is rarely a true deadline by which you have to sign up to a service or product and the offer will still be there if you return on your own time. You are being pressured into doing something, particularly parting with money then this is because they realise that you will see through the scam given time to reflect and investigate.



## ....warning signs that indicate a scam

### **Cold calling**

If somebody calls you rather than the other way around it is generally a scam. They have obtained your details from what is known as the “suckers list” which they probably obtained from somebody else (often the resort) either by buying the list or by stealing it. The people on this list are then contacted as they have fallen for a scam in the past and are therefore likely to fall for another one. Some people fall for scam after scam.

### **You don't understand it**

If you don't understand something then often this is because the person is trying to baffle you in order to hide the truth. We regularly speak to people who signed contracts without understanding what they were signing or even understanding what they were buying. The reason why things are so confusing is that the salesman is trying to deliberately confuse you so that you don't understand the problems or failings of the product. If it is legitimate then you should understand it.

### **Don't assume anything**

Look carefully at what is being offered as often the reality is very different to what you believe you are being offered. Unscrupulous salesmen are very clever at telling you things in a way that your own assumptions lead you to believe something different from the truth.

Only believe anything that is put down in writing (and even then be skeptical).

Assume that there is a trap hidden within that documentation and look for it. It makes sense to get somebody with legal knowledge and knowledge of the timeshare industry to look at any documentation as they will find the traps.

# Portuguese timeshare law

Timeshare legislation has changed over time.

The latest legislation in Portugal is as a result of European Timeshare Directive (2008/122/EC). This regulation actually regulates timeshare, long-term holiday products, resale and exchange contracts.

The Portuguese law that implemented the European Directive was *Decreto – Lei 37/2011* and came in on 10<sup>th</sup> March 2011.

## The key points of the Portuguese law are;

1. Certain information needs to be given to you prior to the sale going through. This information needs to be given to you in your own language. If this is not done then the contract is void.
2. Contracts must be in writing, by a Public Deed and registered in the Land Registry Office.
3. The Land Registry issues the proper Certificate of the ownership.
4. There is a 14 day cooling off period.
5. Buyers must be informed of the cooling off period at the beginning.
6. Deposits cannot be taken at the point of sale or within the cooling off period.
7. If a timeshare contract is cancelled by the buyer then all finance contracts associated with it are also cancelled

# what is a holiday club?

**Most Holidays Clubs are products that have been specifically designed to get around the Timeshare legislation.**

Effectively you are buying the right to access to cheap holidays, flights, hotels and so on. You will often pay thousands of pounds to join the Club. Often you are told that the discounts are exclusive to the Club

These products only make sense if the savings that you make are greater than the amount that you paid up front for them.

In many cases these discounts do not materialize in that the discounts are not as great as can be obtained elsewhere.

In many cases the products or services themselves are not actually available at all.

In many cases clients find that they are mysteriously never quick enough to get hold of the discounts that are available before they are all booked up.

Many people find that they have paid many thousands of pounds up front and are no better off than if they had simply shopped around themselves for bargains.

Essentially many of these Holiday Clubs are a simple way of extracting money from people without providing anything, or providing very little.

Some Holiday Clubs have just an initial joining fee and some have an annual membership fee.

## what is fractional ownership?



**There are huge misconceptions when it comes to the difference between Timeshare and Fractional Ownership.**

Fractional Ownership is where a property is owned by several people. Timeshare is also a way in which several people own a property but which also comes within the definition of timeshare in accordance with Timeshare Legislation.

Essentially Timeshare is a form of Fractional Ownership but Fractional Ownership is not always Timeshare.

Many people will tell you that the difference is that with Fractional Ownership you get title deeds to the property and with Timeshare you only get a Right to Use. That is not strictly correct. It is possible to have Timeshare where you get a title deed to your share registered at the Land Registry. Similarly many Fractional Ownership schemes are structured so that the property is in the name of a company and you are buying shares in that company, which gives you rights to use the property.

Often timeshare companies will tell you that the way out of timeshare is to buy several more weeks and therefore convert your timeshare into Fractional Ownership. That does not work – all that you are doing is buying more weeks of timeshare and there is no change in the structure of what you own.



Some people believe that there are simple solutions to getting out of timeshare;

**Just write to the resort and hand it back.**

This may or may not work and very much relies on the good will of the resort to accept the return of the timeshare from you.

The worst thing that you can do is to write to the resort and tell them that they have to take it back as you cannot afford it. This is because you are confirming to them the reason why you want to get out of your timeshare, which may cut off other exit avenues that are available to you.

## exit strategies from resorts

Some resorts have realised that they have a lot of owners who no longer want the timeshare and who do not wish to pay the maintenance fees. Never slow to spot an opportunity some resorts have decided that they can flip this problem on it's head and turn it into an opportunity. Those resorts are now allowing people to exit from their ownership – providing that they pay large amounts of money up front.

From the resort's point of view this is very clever.

Let us assume that an apartment is worth £200,000 and that they have 50 people owning a week each at the resort.

Let us say that annual maintenance is £500 per week.

Typical exit costs to the resort are around £5,000, which is around the same maintenance fees would be over 10 years. If they can persuade all 50 people to pay them £5,000 to exit the timeshare they will have made a sum of £250,000 and will have an apartment that is free of owners.

They can then do what they want with that apartment – including selling it. If they sell it they will make £200,000.

This means that they have turned a situation where the owners no longer want to own the weeks and don't want to pay the maintenance into a situation where they have received the maintenance fees for 10 years up front and have a property free of owners, meaning that they can make £450,000 from the idea.

Multiply this by several apartments and you can see how the idea is quite attractive to the resort!

If you are going to go down this route you need to be absolutely sure that this is going to work and that there is no small print that you are not aware of and which could cause you further problems.



### **A quick warning about Internet Forums.**

There are quite a few internet forums where people discuss how to get out of timeshare. Most of these forums are genuine and independent. Unfortunately some of these forums have been set up and are run by people looking to ways of scamming the readers or to discredit their competitors. Be careful about what you post and where unless you are sure you understand who is behind the forum.

In addition to this many of these forums are frequented by well meaning people who are more than happy to pass on advice but who have no legal training at all. Often they are passing on snippets of information that they have read somewhere or opinions based on incorrect assumptions. We regularly see people who have followed advice given on such forums only to find that they have managed to get themselves into even more trouble than they were in the first place.

Make sure that if you are taking legal advice it is from a lawyer who understands your issues and not from an anonymous name on a forum somewhere who has no legal training and who is passing on information based on bits of information and speculation. The consequences of getting this wrong can be enormous as the timeshare companies are ruthless and it is very easy to get things wrong when dealing with them.

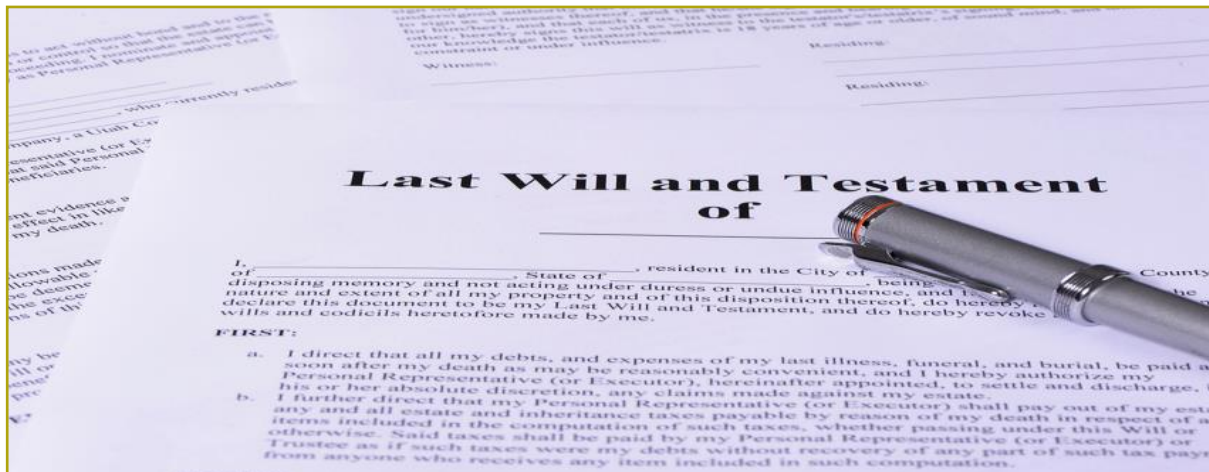
# inheritance

One of the advantages that many people saw when they purchased their timeshare in the first place was the fact that they could pass on the timeshare to their children. This was because many timeshares are in “perpetuity”. This meant that they could leave a lifetime of holidays to their children and all their children needed to pay was the annual maintenance fees.

Of course as maintenance fees have increased many people now see what used to be an advantage as a disadvantage. They do not wish to leave the burden of escalating maintenance fees to their children. Similarly the children do not wish to take on the timeshare because they don’t want to be tied to the timeshare resort and having to pay annual maintenance fees.

Unfortunately unless you can get out of your timeshare there is very little you can do about this. Generally speaking the children cannot renounce just part of the inheritance without renouncing the whole lot. It is unlikely that the administrators of a Will will be able to sell the timeshare but will continue to be responsible for the annual maintenance until it is transferred.

The resorts and other companies are aware of this and are using some scare tactics to try and bully clients into some of the scams that are associated with getting out of timeshare.





## can the resort come after me in the UK?

It is a common misconception that if the resort is based abroad or the contract is subject to the laws of a foreign country then the management company cannot come after you for the non payment of maintenance fees.

Yes, there are rules as to where any litigation regarding debt collection has to take place. These may mean that you have to be sued in Spain, the Isle of Man or some other jurisdiction. Contrary to what some people believe this doesn't mean that the resort can't then come after you in the UK.

It is perfectly possible to obtain a judgment against you in one country and then enforce that judgment in another country. Different countries have different treaties for the reciprocal enforcement of judgments between the countries. Once the judgment has been obtained in that other country it is quite difficult to defend the enforcement of that judgment in your home country. Even if you are successful in doing so this may not stop the other side coming back and having another go – and this time doing it properly.



# how do we cancel timeshare

There are various ways of cancelling timeshare depending on your circumstances. However, essentially there are three different ways;

## **Under the Portuguese Timeshare Legislation**

If the resorts have not complied with their obligations under Portuguese Timeshare Legislation then it may be possible to cancel your timeshare. Timeshare laws have changed over time so we would need to look at the law that applied when you bought.

## **Under general contract law**

If you have been lied to or put under pressure to buy then we can use general contract law to get you out of your purchase.

Obviously such cases come down to proof and also often come down to semantics. The salesmen know exactly what to say which technically is correct but gives a different impression completely.

Often nothing that you rely on is in writing.

## **Under Portuguese Consumer Protection Law**

If the product being sold is in Portugal then Portuguese Consumer Protection Law applies. Most resorts have not complied with their obligations under these laws.

This may be because they are not aware of them or because they don't want to comply and hope that you don't become aware of them. Either way if they have not complied then we can cancel your ownership for you.

Most of our clients cannot afford thousands of pounds in litigation when it comes to timeshare. We wanted to try and find a solution that cost no more than the typical cost of maintenance for a year, which we have managed to do.

First of all we provide a Viability report to let you know whether your case is one which we can help with. This costs £50 plus VAT. Even if the case is viable there is no obligation to instruct us at that stage.

We charge a flat fee of £2,300 plus VAT (a total of £2,760) per week that you own at the resort to cancel your ownership on your behalf. By this we mean that if you own week 32 at apartment 201 and have done for the last ten years we charge £2,300 plus VAT to cancel.

We mention this because some clients think that if they have owned their timeshare for 10 years that counts as 520 weeks!

That figure includes not only our fees but also any costs that we may incur on your behalf, unless your deeds have been registered at the land registry in which case there is an addition €250 to be paid to the Land Registry, €12 to replace the land registry book if you don't have it and potential Power of Attorney costs.

Over the years that we have been cancelling contracts on behalf of clients we have not yet had a client be taken to court by a Timeshare Resort after we have got involved and have managed to cancel all contracts for clients that we have taken on.

If you own several weeks at the same resort we may be able to reduce down the total charges if all those weeks were purchased at the same time on the same contract.

If this is the case please speak to us and we will let you know what we can do about reducing down the fees.

# why use Judicare / why are we different?

## **Portuguese lawyers**

A highly experienced Portuguese legal team.

## **We are Solicitors**

We are a UK based firm of Solicitors regulated by the Solicitors Regulation Authority and who specialise in international legal issues.

## **We are members of AIPP**

The Association of International Property Professionals was set up to improve standards of professionalism in a largely unregulated overseas property market.

## **Experience**

Our Portuguese team has many years of experience dealing with a whole range of legal issues with Portugal and Portuguese speaking countries.

## **We speak your language**

You need a lawyer who can speak your own language. More importantly you need somebody who can explain and discuss often complicated issues in terms that you understand.

## **We do not cold call**

We will never call you unless you have contacted us first. This is not only because we have a policy of not cold calling but also because we don't have your details unless you contact us.

## **Unique solution**

We believe that our Portuguese timeshare cancellation solution is unique in that we haven't found anybody else who is doing the same as us.

# i have been told not to pay anything up front

You are right to be cautious – after all, there are lots of scams associated with getting out of timeshare and many of them are thinly veiled attempts to sell you something else.

We hope that the following information will be of comfort;

- We are solicitors regulated by the Solicitors Regulation Authority
- We work with Portuguese lawyers who are registered at the appropriate Law Society in Portugal.
- In addition to the above we are members of AIPP. (<http://www.aipp.org.uk>) and therefore are subject to the Code of Conduct for the AIPP. You can see that we are members of AIPP at <http://www.aipp.org.uk/members/judicare-legal-service-limited/> and you are free to contact them to check whether we are legitimate. Peter Esders is on the Board of AIPP and is the current Deputy Chairman
- In addition to the above if it makes you feel more comfortable we are happy to have our fees paid to your local UK solicitor and then have an arrangement with them that they will only release the money to us upon proof that we have carried out what we say we will do. Depending on your relationship with your local lawyer they may charge you for this service but it may give you a greater feeling of security.

# Contacts

A member of the Judicare Team can be contacted either by phone, email or post.

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