

Translation of a contrato de arras: a practical proposal for the prose translation classroom (Spanish-English)

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Resumen

Claramente, la realidad del mercado de la traducción actual espera que los traductores trabajen con sus lenguas B tanto de manera directa como inversa. Esta expectativa se extiende a todos los campos, incluido por supuesto el de la traducción jurídica. Es un hecho particularmente común en España, en concreto cuando se trata de traducciones de español a inglés. Por tanto, gran parte de la responsabilidad de preparar a los estudiantes para que sepan enfrentarse con esta realidad recae sobre los profesores de traducción inversa. En esta ponencia, nos proponemos sugerir una serie de ejercicios prácticos que pueden llevarse a cabo en las clases de traducción inversa a partir de un texto legal. El texto es doblemente interesante ya que su tipología no existe en el derecho anglosajón. De este modo, el estudiante se enfrenta por primera vez al reto de traducir un texto que no tiene equivalente en la cultura meta y de saber qué recursos tiene a su alcance. Al mismo tiempo, toma conciencia de que, en casos como éste, no sólo es traductor sino también el nexo de unión entre dos culturas, desde el punto de vista de la comunicación. Así pues, el texto original debe adaptarse de tal manera que el receptor de la lengua meta pueda comprenderlo. Esta ponencia tratará de mostrar una amplia gama de ejercicios que podrían utilizarse para este tipo de textos. Éstos abarcan desde actividades introductorias hasta ejercicios enfocados al resultado final, basado en la traducción de un texto completo del tipo que hemos mencionado como si se tratara de un encargo de traducción simulado que ha de ser corregido. El objetivo que ha de lograr el estudiante es redactar un texto que sea aceptable en la cultura y lengua metas.

1 Introduction

Historically, we have been advised not to translate into a non-native language. As early as the 17th century until late in the 20th century, scholars in the field have taken for granted that translation into a non-native language simply should not be done. Newmark writes in 1988, 'translating into your language of habitual use is the only way you can translate naturally and accurately and with maximum effectiveness'.

Furthermore, those subjects within the translation and interpreting degree program dealing with prose translation have traditionally been seen more as an exercise in language improvement or an aid to reinforce the student's B language and therefore help him/her with direct translation. Only recently have translator instructors began to look at prose translation in a different light. Allison Beeby was the pioneer in this field here in Spain and working with Spanish to English translation. She proposed that we look at prose translation classes as real translation training. Beeby was one of the first to offer a series of practical suggestions and activities as to how to conduct a prose translation class from this new perspective. She offered her methodology as an answer to the reality of the translation market here in Spain. As a matter of fact, in her article *La Traducción Inversa* (1996), Beeby offers the following information: 1) more translations are done into English than into any other language, 2) a great percentage of these translations are *inversa*, 3) in the case of European countries, there is a high percentage of *inversa* translation with the exception of the United Kingdom, for obvious reasons. Last year's conference in Granada, *Foro sobre direccionalidad en traducción e interpretación*, was the first conference devoted exclusively to the topic of 'directionality'. Here we must mention three fairly exhaustive articles written on the subject by the editors of the publication, Dorothy Kelly, Marie-Louise Nobs, Dolores Sánchez and Catherine Way. In the first, *La traducción "inversa" en la bibliografía de la Traductología* (2003), the authors provide us with a very complete survey of the literature on prose or *inversa* translation. The second article, *Reflexiones en torno a algunos conceptos básicos* (2003), "examines some basic notions and terms related to directionality", including the classic *direct* vs. *inversa* argument and what term might be used to refer to this type of translation. The authors suggest TNMT (translation into the non-mother tongue). Finally, the writers offer a third chapter, *La traducción A-B en el mercado profesional* (2003), in which they discuss the translation market and when translators can effectively translate into their B language. Here, Kelly et al present four categories, including market factors, which must be taken into account when a translator decides to accept a professional assignment into his/her B language.

As translation instructors we must bear in mind that translators are clearly expected to work, at least to some extent, both from and into their B languages. This is particularly true here in Spain and especially with Spanish to English translation. The demand for

translations into English is notably high and there are not enough native translators to deal with the volume of work. In a recent survey carried out among our alumni, we asked students in what fields they are working and what percentage of their work is done into English, in other words, prose translation. The results have been interesting. In almost all of the cases, the students have done some translations from Spanish into English. The least amount of prose translation work appears to be among former students working in more technical fields, like computing, or those who work as staff translators in agencies, where *inversa* work is generally done by native translators. Those who report the greatest percentages of prose work are those working freelance and those who are sworn translators. The results of our informal survey are those we logically expected to have. So we can conclude that translating into the B language exists in most fields and especially, in the fields of legal and sworn translation.

Prose translation is a requirement for all students pursuing a translation and interpreting degree here in Spain. All faculties include the core subject *Traducción Inversa Especializada*. Most of them also offer a general prose translation class as either an obligatory or optional subject. At this point it might be helpful to see how our programme of studies is laid out. Within our programme, students have three full years of prose translation. They have three different yearlong subjects which are: *Traducción General A-B I*, *Traducción General A-B II*, and *Traducción Especializada A-B*. *Traducción General A-B I* is an obligatory subject from the second year of the degree carrying 9 credits. *Traducción General A-B II* is obligatory, is taken in the third year and also carries 9 credits. *Traducción Especializada A-B* is a core subject taken in fourth year and carries 12 credits. This last subject is divided into four parts representing the four principal areas of specialised translation: economic, law, scientific and technical.

2 Legal prose translation

Therefore, in light of this data and a more general knowledge of the market from our own professional experience we are led to assert the following: the responsibility, at least in part, to prepare students to face this eventual reality, lies with prose or *inversa* translation instructors. Once we have arrived at this conclusion the question remains as to how to go about this rather daunting task. In an attempt to answer this question, we have developed a methodology to help us and the students achieve this aim.

Basically our objective is twofold, one that students be able to produce a decent and correct translation into English with a variety of text types and the other is that they feel as comfortable as possible in this role and confident in their ability to face this situation. With this paper we would like to suggest a series of practical exercises that can be carried out in the prose translation class using a legal text as the basis. This is an example of the kind of text seen by our students in specialised translation in the fourth year of the degree programme.

The methodology chosen and the types of texts presented in the prose translation class must necessarily reflect the demand for Spanish to English translations and the particular needs and problems that the students present. If we as translation instructors respond to the demand of the market here in Spain and strive to train our students for later professional life, we should direct our methodology and strategies toward reachable goals. One of our objectives is that students see as many different typologies as possible to give them the widest experience. However, we should, perhaps, concentrate our efforts on those fields from which our future translators are most likely to receive assignments. In her article *La Traducción Inversa* (1996), Allison Beeby asserts that students can learn to do acceptable *inversa* translations of certain types of texts. She calls these standardised translations. These are translations of essentially static texts, where a high percentage of the lexicon is standardised. She includes within this typology texts related with public administrative offices, such as birth, death and marriage certificates, academic records and diplomas, etc. Beeby underscores the importance of the research stage where students and professional *inversa* translators must search for appropriate models and parallel texts in English to assist them in their task.

Following this same logic, we would like to assert that the category of standardised translations might be broadened to include more specialised legal documents such as the one we have at hand today. For the same reasons that Beeby gives, texts such as powers of attorney, deposit contracts, divorce decrees and others are also within reach of the translator working from Spanish into English. These types of legal documents are also highly standardised. As a matter of fact, here in Spain these documents are almost always forms in which only the personal information is changed, which means they are practically static. With adequate practice and good parallel texts in English, students should be capable of producing a decent and correct translation of these documents. Furthermore, since these texts are so similar, having

done one should suffice as a model for future work.

Both legal translation, *traducción jurídica*, and sworn translation, *traducción jurada*, are fields in which there is a great demand for translations into English. Demand for this type of text has increased in recent years. This rise is primarily due to the greater mobility of the Spanish population and an influx of English-speaking tourists and visitors who come on a more permanent basis. Spanish students travel abroad more frequently, to finish their studies or start their professional life and they need to have their academic records and certificates translated into different languages. International commerce and the process of globalisation have also had an impact on the demand for legal translations. Since English serves as the *lingua franca* for international commerce, the demand is particularly high for translations into English. As we are all aware, certain parts of the country have become quite popular as retirement areas for citizens from English-speaking countries. These people come to Spain and want to buy property and take up residence, but they know little or nothing of the language and culture. Here translators are essential to build a bridge between the two cultures and languages. It is clear that at least in some areas of the country, native translators cannot keep up with the pace of the demand. We can again cite the informal survey that we carried out among our alumni. One former student and a colleague working as sworn translators in the Madrid area estimate that they do 90% of their sworn translation from Spanish into English. Another former student working in the South as a sworn translator estimated the total to be 50%. Yet another student from the north of Spain has commented that there are no other sworn translators in the area and that any sworn translation done, whether into Spanish or English, must be done by her.

We would like to turn now to an article by Leo Hickey, *Aproximación didáctica a la traducción jurídica* (1996). After explaining the intrinsic difference he sees between legal translation and other types of translations due to the fact that law and its linguistic formulation are basically one and the same as law cannot exist without words, he proposes twelve basic assumptions for legal translation. Among these, we found the following to be especially interesting and applicable to our case: 1) false friends are even more dangerous in legal translation, 2) care must be taken with technical terms disguised as normal terms, 3) the translation should do the same as the original text and this may require a cultural adaptation 4) the translation should be done as

the client requires, 5) when possible the translation should have the same format as the original, 6) bilingual dictionaries should be used with much care and never without cross-referencing in a monolingual dictionary. We will refer back to these assumptions when we look at the specific activities that we propose for class.

3 Practical proposal

3.1 Introduction

In accordance with the idea that students should see and work with as many different text types as possible, we present students with at least five different kinds of legal documents during the legal segment of specialised translation. We attempt to choose primarily those which students may be asked to translate in the future and those we feel are more standardised and thus more within reach for the *inversa* translator. Among the documents that students work with is the *contrato de arras*. In Spain, the *contrato de arras*, and the next document in the process, the *contrato de compraventa*, are two text types which the translator is very likely to be asked to translate into English, even more so if working in certain parts of the country. We chose the *contrato de arras* for its peculiarities in the original language. It is also a good example of a document with very specific characteristics in Spanish. The text is doubly interesting because it is a text type that does not exist in Anglo-Saxon law. The student is first faced with how to translate a text which does not exist in the target culture and what devices are available to him/her. At the same time, he/she becomes aware of the fact that, in cases like the text discussed here, the student is not only the translator but also the communication link between two different cultures. Therefore, the original text may need to be adapted, making it understandable to the target reader.

3.2 Class activities

The class activities we offer in this section have been planned so as to gradually introduce students to the topic and the text type they are going to be working with in both Spanish and English. As we mentioned before, the general field we are working in is legal documents; the general context is buying a house in Spain; and the specific text type is a *contrato de arras*, which is the text they will have to translate into English. These activities can be divided into five major groups:

- a) list of terms in Spanish

- b) text in Spanish
- c) texts in English
- d) discussion in class of possible translation projects
- e) translation practice: translation into English of an original Spanish text (to be corrected in class)
- f) translation into English of another original Spanish text, this time to be turned in for correction (simulated professional translation assignment)

The very first step in the process is to make students aware of the type of text they are going to be dealing with, in both languages and cultures, so that they are able to pinpoint the differences there are and be prepared to solve them when faced with a translation of this kind. We hope the series of activities we have planned help them to fulfil this aim.

- a) list of terms in Spanish

First we work with the students' mother tongue, Spanish. This is the first contact students have with the topic: legal texts, more specifically those involved in the process of buying a house in Spain. At this point they are still not familiar with the actual text they will have to translate but they start working in the general field which is buying a house (legal language).

The organisation of this first activity is as follows: the class is divided into two groups and each one is given a list of Spanish terms related to the topic (buying a house in Spain). The two lists are different, so that they have a variety of terms (see annex 1).

The first exercise students are asked to do is prepared outside class: using a Spanish monolingual dictionary or other sources (specialised monolingual dictionaries, magazine and newspaper articles, books, etc.), they have to define the terms they have on their list. At this point, they are going to be working only in Spanish; they can add the equivalent terms in English if they find them, although we will not deal with them until we have them in context, in the original Spanish text. Our aim at this point is to make sure they understand the topic first in Spanish so that we can move on to working with both languages.

The following day students are paired in class, one with each list. In their pairs, they share the information they have found, explaining their terms to the other person. Once all the pairs have finished, we quickly review the concepts as a class to make sure all terms are clear and thus solving any possible doubts that may

have arisen during their search for the information.

We thought this was a good starting point for a first contact with the topic. It serves students to start thinking about the concepts related to the topic and make them realise that simply because they are working in their mother tongue does not mean that they can relax and be sure they are going to understand everything. This is a highly specialised field with highly specialised terminology.

Up to this point we have only worked at word level, looking at terms out of context (we have the broader context of buying a house in Spain, and we have looked at terms that usually appear in texts on this subject, but nothing more). The next step is to familiarise students with the general topic their possible translation texts belong to and make them realise that in order to be able to translate them properly we need to be sure of what the original text means. And it is now that we also start working with both cultures, leading students to become aware of the fact that there may be fairly large gaps between cultures that we as translators need to solve: we are communication links between languages and cultures. Exercises 2 and 3 are aimed at helping them realise this and have this information at hand when translating the documents.

b) text in Spanish

One of the translator's main aims is to faithfully translate the original text and to also make it work in the target culture the same way it did in the source culture. This includes solving the cultural gap that may exist between two languages and cultures (which is very clear in our case). In order to achieve this, the first thing we need to do is have the "basis", i.e. make sure we understand the process first in the source language and culture before we tackle the translation (we need the cultural background before translating).

Translation students need to be aware of this, and much more so in this particular case when the gap between the two cultures is bigger and can influence the final version (systems are completely different and so are documents and wording). Thus, we propose first working with an original Spanish text dealing with the main topic (the text is an explanation of the steps followed in the country when buying a house).

The procedure is as follows: students are asked to read the text

and to make an outline of the steps mentioned in it (see annex 2). This exercise is done outside of class. Then, once in class the outline they have worked on goes on the board and the class as a whole group discusses it and comments on it. Doubts that may have appeared while working with the texts are solved and any difficulties students may have in terms of the process being carried out in Spain are discussed.

As we mentioned before, the aim of this exercise in Spanish is linked to one of the maxims of translation, understanding the original text before translating it into the source language. We believe this activity is very useful for students: to understand their own process gives them the basis from which to understand the English documents and process, and this will then help them see the differences there are between the two cultures and be ready to overcome them.

c) texts in English

Once we have an outline of the process in Spain, students are asked to do a very similar exercise, this time working with original English texts explaining the process in the Anglo-Saxon world. In order to give them as many different examples as possible (so that they have general information of all the main English-speaking countries), and to offer them examples of different "Englishes", we decided not to limit the parallel texts to just one country, but rather several. Accordingly, the class is divided into groups, one per country (United Kingdom, United States and Canada). Each group is given a text to be read and is asked to do an outline of the steps described in it. Again, this activity is done outside class and students have to come the following day with the outline prepared (see annex 3).

In class, each group comments on their text and puts their outline on the OHP or on the board; they explain to the rest of the class the process and the steps needed to buy a house in the different countries. This activity helps students compare and contrast the process in each foreign country. Finally, the class as a whole discusses all of the outlines, commenting on the differences and similarities they notice between countries.

At this point, and with all the outlines, we compare and contrast the Anglo-Saxon process with the Spanish process. This is a very important part of the activity and a good step in the translation process since it makes students realise that the cultures are different, the legal systems are different, the documents and their

wording are different, and so are the expectations of the target readers. This will influence how we do our translation and how we pass on the information. Being aware of these differences before they start translating a text helps students be better prepared to face the translation task, and therefore better prepared to offer a final document that will 'work' for the target reader.

d) discussion in class of possible translation assignments

One of the eternal discussions among translation trainers is the point of view of the training process; in other words, what to concentrate on when training students: the process, the steps they need to follow to do a translation (process-oriented focus); or the final product they should obtain (product-oriented focus). During their training both possibilities should be dealt with, for both of them form part of a future translator. In our specific case, the first exercises we have worked on are clearly process-oriented, looking at the different steps they need to follow in order to prepare for the translation and guiding them through that process. But, once these steps have been taken and we are faced with the text, the *contrato de arras* in our case, then the point of view changes and students need to realise that at this point their aim is more product-oriented, we produce a text in English which is faithful to the original document in Spanish but at the same time fulfils the needs of the client, of the target reader. According to Leo Hickey "the translation should be done as the client requires" (Hickey, 1996). This piece of information is very important because it determines how we tackle the translation and the strategies we are going to use to achieve our aim. Depending on what the client wants and needs, there are different ways of approaching the translation activity, and it is important for students to be aware of these possibilities: from a very literal translation to an absolutely free adaptation of the original text to the target language and culture, "to the point that the translation itself looks like an original [English] document" (Hickey, 1996).

Here, the translator instructor needs to pose a series of questions to get students to think about the different possibilities of the client's requests and the ways to deal with them. We believe this discussion activity is useful for students for it helps them to quickly locate the document, its characteristics and start thinking on its aim and thus how to translate it into English. From experience we know that putting everything we have talked about in the previous exercises into practice at the same time is a difficult task, so this discussion or thinking-aloud activity helps them verbalise the information they have worked with so far and

they seem to have it more at hand when they start translating.

This exercise is done as a class activity with the participation of all students. Students now know how to buy a house in Spain and in various English-speaking countries; they have worked on the differences there are between the cultures and have also looked at the information at word level (terminology). They are now faced with the possibility of translating a text on this topic, in our case a *contrato de arras*, into English, and before they tackle it they will answer a few questions that will help them focus their translation: when and why would I be asked to translate this document into English?, what is the purpose of the original document? and what is the purpose of the translation?

The type of text we have chosen, a *contrato de arras*, is a document which has no equivalent in the Anglo-Saxon world, it is not one of the documents people buying a house in the United Kingdom or the United States would have to sign. So we asked ourselves, what would happen if someone needs to translate this into English? How do they solve the enormous gap there is between the two systems?

This exercise can be divided into different levels:

- putting all the information together;
- looking at a translation assignment (*contrato de arras*);
- reflecting upon the translation assignment before translating:
 - when and why
 - client (target reader)
 - purpose of the translation
 - major translation problems we may encounter

These are questions they should always ask themselves, whenever they have to do a translation, but much more so in this case, due to the peculiarities of the original text and the differences that we have seen between the cultures. And students need to adjust the type of translation they do accordingly. It is very important for the future translator to have a clear idea of the different possibilities there are for a translation according to the kind of assignment, so that they are capable of adapting their professional work to the requests of the client.

For a more exhaustive look at this topic, we recommend reading the above mentioned article by Hickey (1996).

e) translating into English

And finally we are ready to put everything into practice, the last step of the process: the translation into English of an original Spanish *contrato de arras* (see annex 4). The procedure is as follows: students are given a text to translate and told to do two things: 1) look for parallel texts; and 2) translate the text into English for class (taking into account everything we have been talking about in the previous exercises).

In the following class, students are asked to share the parallel documents they have found on the topic. The answer is that they have found examples of 'sales contracts' in English but not a document like the *contrato de arras*. This fact leads us to another discussion in class that will help students: why were they not able to find an equivalent document in English? What implications does this have for our translation? Well, the document does not exist as such in the Anglo-Saxon world. Faced with this fact, and interestingly enough, students who found examples of sales contracts in English said they were able to use them as parallel texts: for example, they took the preamble of the sales contract and used it for the beginning of the *contrato de arras*, thus applying one of the translation strategies, using information from existing legal texts in the target language to adapt and translate the Spanish original text, (the target reader will recognise information and we use it to pass on the message).

After much discussion on the use of parallel texts, looking at what kind of information could be useful to us, we then start working on the translation of the text in class: the translation is corrected on the board. The process of correcting the text includes a practical discussion about the format of the document in English, the cultural gaps (how to solve them and act as links between the two cultures) and terminology; and this is where we go back to the first list of terms we gave them at the very beginning. Now, with an original text in front of us, using the terms in context, we see if the possibilities they found in English actually fit in our text or if they had to look for other options.

f) translation into English of another Spanish original text (simulated professional translation assignment)

Finally, students are then asked to translate another similar text to be turned in and corrected by the teachers. They are expected to apply the strategies and translation techniques we have been discussing in class and follow the same process.

3.3 Translation Problems

The last of the series of activities, going over their translation and commenting on the difficulties they have had when translating the text, is very important in the process of translation training. This is the moment when students see how they have processed all the steps we have been working on in the introductory exercises and the strategies they have used. It is also an activity that serves us as a showcase to see in what way the exercises that we have been working on have actually helped students face this text type and look at the results. This correction process also reveals some lingering problems.

At this point, we would like to comment briefly on some of these problems we found students have had and how we have faced them. The aim is to guide them through the process so that at the end of their training they are capable of applying the strategies they have learnt and producing acceptable final products.

While problems may appear at other levels, several important ones rear their ugly heads at word level. Returning to Hickey's assumptions (Hickey, 1996), he stated that false friends are particularly dangerous in legal translation. This is true because students are more far afield from the English that they are accustomed to using. We need not look any further than the problems that occurred with the Spanish term *escritura*. This term is very frequent in Spanish legal texts and has different meanings depending on the context; and it has at least four different English translations, again depending on the context. This term, among others, posed a problem for the students when translating the *contrato de arras*, mainly in choosing the option that would transmit the meaning of the term in the original document.

Continuing with Hickey, he stated that we must be especially careful with technical terms disguised as normal terms. An example from the text at hand is *finca*. *Finca* is precisely the type of term referred to because it has a meaning used in normal everyday language and it is also used in legal contexts with a very specific meaning. Students must be aware of these aspects of the language and be prepared to solve the possible problems in their translation.

Bilingual dictionaries should also be used with much care and never without double-checking in a monolingual dictionary. Hickey also included specialised bilingual dictionaries in his advisory note.

From our own experience we can say that here we have to fight constantly against the student tendency to rely too heavily on bilingual dictionaries, be they specialised or not, and we have to change their minds as to use of a bilingual dictionary (Goodwin and McLaren, 2003). We must convince students that specialised bilingual dictionaries can only serve as a bridge from the Spanish term to possible English terms when they have no idea where to start. Students also have to learn to use specialised monolingual dictionaries and remember that one of their fundamental uses is to double check terms found in the bilingual. The training with bilingual and monolingual dictionaries is a part of the syllabus in previous translation years, but we need to emphasise it even more here: they are now working with a very highly specialised topic and language, where using the wrong word can invalidate the whole translation.

We have chosen to comment mainly on word-level problems, which is precisely what we try to help students avoid, because they always find it difficult to detach themselves from the words of the original. This is probably more so in this case where there is no target text to use as a guide. We need to encourage them to try and look beyond the word level to the message of the document, to work as communication links and offer the information in the other language to the other culture. We strive to show them that this is not a "mission impossible", that it can be done, and that they can do it. Hickey included in his 12 assumptions we mentioned before (Hickey, 1996) that the translation should do the same as the original text and that this may require a cultural adaptation. Our aim with this article was to offer a possible practical proposal which can be used to guide students along this path, showing them that they can adapt the document culturally, making adjustments when necessary, and at the same time always remaining true to the original message. The goals can be reached. Both the students' aim of producing a translation that works in the target language and culture and the teacher's aim of guiding students through the process, training them to spot problems, and giving them the tools to solve these problems and produce a decent and acceptable translation are realistic goals.

ANNEX 1

Buying a house – lists of terms

List 1	List 2
Terminology - concepts	Terminology – concepts
Contrato de arras o señal	Agente de la propiedad
Escritura	inmobiliaria
Escritura pública	Registro de la Propiedad
Escritura privada	Inmueble
Documento oficial de	Libre de cargas
compraventa	Propietario
Las partes	Firma de la escritura
Notario	Contrato privado
Comparecientes	Importe de la casa
Firmante	Contratantes (comprador y
Cargas o gravámenes	vendedor)
Registro de la propiedad	Finca
Titularidad	Cargas que tenga la propiedad
Vivienda libre de arrendatarios	Hipoteca
y otros	Crédito
ocupantes	Compraventa
Montante de la señal	Precio de la compraventa
Aval bancario	

ANNEX 2

Buying a house – Spanish text

Compra de vivienda

En caso de adquirir una vivienda de un vendedor particular, es necesario que el comprador compruebe determinados aspectos en orden a evitar problemas que pudieran plantearse en el futuro; así es conveniente que se informe de:

1º.- Los títulos de propiedad del transmitente, esto es del vendedor, comprobando la existencia de cargas en el registro de la Propiedad, es decir, cerciorándose sobre la posible existencia de embargos e hipotecas; toda esta información puede solicitarse en el Registro de la Propiedad. Este es público para toda persona con un interés legítimo, teniendo en cuenta que es el contenido de los libros lo único que ha de interesar a la persona que los consulta.

2º.- Solicitar a la Comunidad de Propietarios, del que se va a formar parte, una copia de los Estatutos de la Comunidad, aunque éstos también pueden obtenerse en el Registro de la Propiedad. Además es conveniente, saber si el vendedor está al corriente en el pago de gastos de la comunidad, pues en caso contrario, es al comprador a quien le corresponde pagarlos, sin perjuicio del posterior derecho que le asiste a reclamarlos contra quien le vendió la vivienda.

3º.- Recibo de haber pagado la última anualidad del Impuesto de Bienes Muebles, que es la llamada contribución urbana

4º.- Si se suscribe la adquisición por documento privado hay que tener en cuenta que lo estipulado en el mismo obliga a las partes, sin perjuicio de que los Tribunales consideren y declaren que determinadas cláusulas sean abusivas.

(...)

¿Qué tengo que hacer para comprar un piso?

Al futuro comprador o vendedor de un inmueble se le recomienda que, antes de formalizar la operación, tenga en cuenta algunos factores muy complejos, de tipo constructivo, urbanístico, jurídico, fiscales, financieros, etc.

- **TITULARIDAD DEL INMUEBLE:** En primer lugar, el futuro comprador debe asegurarse de la titularidad del vendedor, así como del régimen y situación jurídica del inmueble (si es libre o está acogido a protección oficial, si se rige por el régimen de propiedad horizontal o el de multipropiedad), existencia de cargas o gravámenes, como hipotecas, embargos, etc.

Únicamente la inscripción de la compraventa en el registro hace prueba frente a terceros, de manera que el que compra en base al registro no puede verse sorprendido por posibles titulares o cargas que no aparezcan inscritas.

El registro de la propiedad tiene carácter público, y por tanto, cabe consultar libremente y solicitar notas o certificaciones sobre la titularidad, cargas o gravámenes que afectan a un bien inmueble concreto.

- **REQUISITOS URBANISTICOS:** El comprador del inmueble debe comprobar que éste ha sido construido cumpliendo todas las normas urbanísticas y ordenanzas municipales, en especial que

ha obtenido la correspondiente licencia municipal de obras. Si el vendedor no proporciona los oportunos justificantes, puede solicitarse la correspondiente certificación al Ayuntamiento al que pertenezca el inmueble.

- DOCUMENTACION DE LA COMPRA: Puede formalizarse de dos maneras: documento privado o documento público.

1.-Documento privado: éste ha de estar suscrito necesariamente por el vendedor que sea titular registral y por el comprador, o personas que legalmente les representen mediante poder notarial expreso para dicho acto. Cuando se trate de Viviendas de Protección Oficial, el contrato deberá ser visado obligatoriamente por los organismos competentes de la comunidad autónoma. Si se quiere una vivienda en fase de proyecto, en construcción o terminada, las cantidades anticipadas a cuenta del precio tienen que asegurarse mediante contrato de seguro o aval bancario, debiendo entregarse al comprador el pertinente documento que lo acredite. Todo ello hasta tanto se formalice la escritura pública, ya que el documento privado sólo produce plenos efectos entre las partes, no frente a terceros.

2.-Documento público: Conocido como escritura pública, es aquél que está intervenido por Notario, quien, además de asesorar a las partes, garantiza la legitimidad de las firmas y da fe pública de la fecha y contenido de la compraventa; este documento público es el necesario para poder inscribir la operación en el Registro de la Propiedad. Para mayor garantía del adquirente, es aconsejable formalizar la adquisición en escritura pública, procediéndose seguidamente a la inscripción en el registro. Dicha inscripción producirá entonces efectos no solo frente a las partes sino frente a terceros. Previa la realización de la inscripción es necesario haber efectuado el pago de los impuestos correspondientes, abajo reseñados.

GASTOS: Honorarios de consultas al Agente de la Propiedad Inmobiliaria, Abogado, etc. Honorarios de Notario por otorgamiento de escritura pública. Honorarios del Registrador de la Propiedad por la inscripción en el registro de la citada escritura pública de compraventa.

IMPUESTOS: Corresponde al comprador el pago del Impuesto del IVA. Este será del 7 % o el 16 % según se trate de viviendas y anejos o de locales comerciales, respectivamente, en primera transmisión. También en esta primera transmisión es necesario el abono del impuesto de actos jurídicos documentados que será de 0'5 %. Si se trata de segundas o ulteriores transmisiones, se ha de pagar el impuesto de transmisiones patrimoniales, actualmente el 6 %.

Arbitrio municipal de plusvalía (impuesto municipal sobre el incremento del valor de los terrenos), cuyo importe está en función de la superficie, situación, y cuota de comunidad de la finca y del tiempo transcurrido desde la adquisición del inmueble por el vendedor, hasta la actual transmisión. Corresponde al vendedor por ley el abono de dicho impuesto.

(...)

Compraventa

Contrato de compraventa: concepto

Es aquel contrato mediante el cual el vendedor se obliga a entregar una cosa determinada y el comprador a pagar un precio cierto según lo convenido entre ambos. El consentimiento de compra y venta no necesita ninguna forma en especial en cuanto a su forma de realización.

¿Qué se puede comprar o vender?

El objeto en si es la compra y venta de algo que se encuentra en el mercado, o pueden ser cosas que nazcan con el paso del tiempo (una cosecha o un piso que se va a construir). Si sobre lo acordado en el futuro no llega a tener existencia, el vendedor no puede cumplir su obligación de entrega, y por tanto el comprador tampoco esta obligado a pagar nada.

Debe de determinarse también lo que se va a comprar con el fin de especificar lo que se quiere adquirir y determinarlo en cuanto a su genero (20 kg. de centeno, un coche marca...) y especie

La venta puede ser sobre objeto propio del vendedor o de otra persona eso si obligándose con el comprador en todo momento desde que se acuerda la compra o venta del objeto en cuestión.

Incluso puede ocurrir que el vendedor se reserve el dominio de la cosa (es decir que no se la entregue al comprador hasta que este no pague la totalidad del precio).

El precio de la compraventa

Es lo pactado entre el comprador y el vendedor, precio que puede determinarse en el momento en que ambos llegan al acuerdo, o pueden hacerlo una vez que se entrega el objeto de la misma, e incluso se puede dejar una "señal" o deposito a cuenta que se llama también "arras" que confirman la celebración del contrato.

Consecuencias del contrato de la compraventa

En cuanto a la entrega de la cosa por parte del vendedor, este tendrá que entregarla en el estado en que se encontraba en el momento de llegar al acuerdo, además de dar los frutos y accesorios que la componen. La cosa se entiende entregada cuando el comprador la recibe para si, aunque puede que no pueda entregársela materialmente y como sustituto a ella, se le entrega por ejemplo las llaves de inmueble o la propia escritura en si en el caso de que sea un bien inmueble (por ejemplo un piso).

Puede ocurrir que el vendedor no este obligado a entregar la cosa hasta el completo pago de la misma, o porque incluso porque el vendedor descubre que el comprador es insolvente.

Puede también ocurrir que lo adquirido no sea de propiedad del vendedor. ¿que puede hacer el comprador ante esta situación ?. El comprador tiene derecho a que le indemnice por incumplimiento de la obligación

(...)

Compraventa de bienes muebles a plazos

Compraventa de bienes muebles a plazos: concepto

Es el contrato mediante el cual el vendedor entrega al comprador una cosa mueble y en ese preciso instante de entrega el comprador paga

parte del precio y el resto según lo estipulado en el contrato siempre que medie un periodo de mas de tres meses.

Derechos y obligaciones del comprador en la compraventa a plazos

¿Cuales son los derechos que tiene el comprador en este tipo de venta?.

- 1). Derecho a rescindir el contrato siempre que se hubiere pactado dentro de los tres días siguientes a la entrega de la cosa.
- 2). Derecho a poder adelantar el pago de las cuotas estipuladas en el aplazamiento al pago.

¿Cuales son las obligaciones del comprador?

La obligación fundamental es pagar el precio de lo convenido, junto con la obligación de conservar la cosa

Derechos y obligaciones del vendedor en la compraventa a plazos

¿Cuales son los derechos del vendedor?

- 1).El principal derecho que la Ley le otorga es el de optar por la resolución de contrato por falta de pago de los dos últimos plazos designados. Si el vendedor opta por la resolución del contrato las partes tendrán que reintegrarse lo dado, aunque se permite una serie de deducciones sobre lo pagado, tal es el caso de deterioro de la cosa, junto con el 10% en concepto de indemnización por la tenencia de la cosa en manos del comprador.

¿Cuales son las obligaciones del vendedor?

- 1).Expresar las condiciones de venta a través de medios de publicidad en la que debe constar lo que entendemos como la "entrada" y los medios de pago aplazados restantes.

Los medios de garantías con que cuenta el vendedor en la compraventa a plazos

- 1).El comprador no puede vender el bien hasta que no pague por completo al vendedor
- 2). El vendedor tiene preferencia de cobro sobre lo adquirido por el comprador hasta lo que cuesta la cosa comprada.

(...)

[source: <http://www.webjuridico.net>]

ANNEX 3

Buying a house – English texts

Text 1

Sales Contracts

"Discussion" Becomes Commitment

Once the perfect home has been found, it is time for the house buyer to take the step that makes so many of us tremble with fear: the sales contract. To take some of the mystery out of the house sales contract, we will discuss what the contract involves and the components of most housing sales contracts.

First, remember that what you are signing is a **legal contract**. No matter what anyone says, you are not just making an "offer". Most sales contracts will have some paraphrase of the following: "This is a legally binding contract. If not understood, seek competent advice before signing." To put it simply, if what is written on the contract regarding selling price and provisions is accepted by the seller, you have bought a home. Unlike other negotiable businesses, such as the automobile business, "would you take?" is defined in Real Estate by a legally binding contract backed with a monetary deposit.

What are the Components of a Contract?

Although there will be some variance based on the location of your residence, most Real Estate contracts contain most or all of the following items:

THE SALES CONTRACT: WHAT IT INCLUDES

What: A legal description of the property as well as the street address.

How much: The selling price.

Mortgage contingency: Subject to obtaining a mortgage (if applicable) and the specifics of the mortgage—amount, rate and term. Application to be made in X number of days.

Deposit: How much money accompanies the contract and who will hold it.

Closing: When and where.

Inclusions and exclusions: What is and is not included in the sale of the property.

Home inspection: Contingency for and to be done in X number of days.

Warranties: Any that are included with the house and description of the warranty.

Condominium: If the property is a condo, other provisions will apply.

Well and Septic: If applicable, they must be tested (and pass).

Termite and Pest inspection: Who will pay and if there is infestation or damage, who will repair.

Possession Date: When the buyers take possession of the house--before, at or after closing.

Acceptance: How long the sellers have to respond to the offer with either acceptance or a counter-offer.

Arbitration: Any provisions for arbitration of disputes.

Insurance: Whose insurance covers the property up until the closing date.

Property Disclosures: Notices of any property disclosures concerning the house.

The exact wording of the sales contract will vary from locality to locality (and sometimes even within localities), but by being prepared to see at least the items listed above, you will be in a better position when it comes time for the Agent to ask for your signatures!

Text 2

Offers

One of the most common misconceptions among home buyers occurs when it comes time to making an "offer" or a "bid" on a home. Many believe that even though they have tendered an offer to the sellers, that their options are still open. To some degree, this is correct. If the seller rejects the offer, counteroffers it, or simply does not respond, options *are* still open. You, as the buyer, can accept the counteroffer, make another offer, or simply move on.

If, however, the seller accepts the offer (and you are notified of its acceptance) then a legally binding contract has most likely been struck. In the majority of cases and localities, there is not even the need for additional paperwork--the signed offer becomes the contract. Your options now are more of the "do we want to paint the master bedroom before or after we move in?" Once the offer has been accepted, the "lets think it over just a little bit more" phase has passed. This is why it is crucially important to make sure that all of your bases are touched and all of your intentions made clear in the offer--it can become a binding contract in the blink of an eye and a stroke of the seller's pen.

Some of the items that need to be addressed in an offer are:

- The proposed selling price (your offer).
- Any concessions you desire the seller to make.
- Any financing contingencies (for example, subject to you being able to obtain a satisfactory mortgage. You can go as far as to state maximum interest rates, specific terms, etc.)
- Any home inspection contingencies (for example, subject to an acceptable whole house inspection report).
- A clear definition of precisely what is to be included in the sale. Don't simply assume that items such as porch swings, fireplace doors and refrigerators are included. Doing so usually causes some unpleasant surprises on moving day. If there is any question, be specific!
- The amount of earnest money (your deposit) that is being tendered with the offer.

You can download an example of an [offer for purchase](#) from [Smart Agreements](#). It will give you an excellent background knowledge of exactly what is involved. As with any form, however, it may or may not be applicable in your jurisdiction. Do not use any Real Estate form before first consulting with an Attorney.

Since an *offer* can become a *contract* very quickly, it is important to understand how they are two sides of the same coin.

[source: <http://www.ourfamilyplace.com>]

Text 3

Bringing it all "Home" -- the Closing

After the searching for a home is done, the negotiations have been completed, the house has been inspected, and the mortgage has been applied for and committed to, the focus suddenly turns to the **Closing**, **Settlement**, or **Escrow** as it is known in some localities. For simplicity, in our discussions here we will refer to the process when it all comes together and you finally own the home as **Closing**. An understanding of the elements of and players in the closing, as well as a concise preparation for it, will eliminate many nervous hours as the day approaches.

What is involved?

It is the proverbial "signing on the dotted line:" the process of which will put the title to the house in your name, verify homeowners' insurance on the property, commit in writing to the terms of the mortgage, and usually, put the keys to the house in your hands. In general, you will leave the closing and go to your new home as a homeowner. The weeks and months of anticipation are all settled in the short amount of time that you spend at the closing.

Closing procedures will vary from locality to locality. In some areas, the buyers and sellers (as well as their Real Estate Agents) will all attend the closing. In other areas, only the buyers will be present. The closing will take place at the office of an Attorney, a Title Company, or an Escrow Company (again, there is some variance here based on your local laws and tradition). In general, though, the closing will be attended by all of the buyers involved and their Real Estate Agent, as well as the Closing Agent, who has reviewed all of the components of the house sale and who is the one who will say "sign here" more times than you have ever heard in your life.

What forms are involved?

Although there may be additional documents involved, the primary items which are dealt with at the Closing are:

The Settlement Statement--[Page 1](#) and [Page 2](#)

The [Contract](#)

The Loan Papers

[Title Insurance](#)

[Homeowners' Insurance](#)

The Title or Deed

The Down Payment and Closing Costs

The Closing is your final opportunity to make certain that everything related to the purchase of your home is correct. It is important, therefore, that you do adequate preparation prior to the day of Closing. Although your Agent will most likely review all of the items needed with you, it is a good idea to have the right information in case you need to handle it on your own.

What items will we need?

The following are the most important items that you will need prior to or at closing and some hints regarding them:

A Closing cost estimate: This should first be given to you by your Agent at the time of the contract, and then given to you by the Lender, a **Good Faith Estimate**, shortly after the application for the loan. This should give you a reasonably close estimate of funds you will need at the time of closing.

Homeowners' Insurance Policy: This must be secured prior to the date of closing. For more information on coverages (and saving money) see the [Homeowners' Insurance](#) section.

Settlement Statement: You should have a copy of the [Settlement Statement](#) before the date of Closing. Generally this will not be available until one or two days prior to the actual Closing, but it is important to have it because it gives you the total amount of cash you will need at Closing and also how those various funds will be dispersed. In addition, it gives you an opportunity to iron out any discrepancies prior to sitting down at the Closing table. Your Agent should also have a copy for review.

Certified Funds: On the day of Closing you will need certified funds for closing costs and down payments. This is an important reason for needing a copy of the Settlement Statement a day or two in advance--so you know the amount of funds needed and so that any problems can be handled in advance.

By making adequate preparations in advance, you will be far less likely to have nasty surprises when everyone (especially you!) is ready for closing.

[source: <http://www.ourfamilyplace.com>]

ANNEX 4

Contrato de Arras original text

CONTRATO DE ARRAS

En (LUGAR), a (DIA, MES Y AÑO).

REUNIDOS

De una parte, D/D^a. (NOMBRE Y APELLIDOS), mayor de edad, (ESTADO CIVIL), con DNI (NUMERO), y con domicilio en (CALLE, NÚMERO, PISO, CIUDAD, PROVINCIA, CODIGO POSTAL).

De otra parte, D/D^a. (NOMBRE Y APELLIDOS), mayor de edad, (ESTADO CIVIL), con DNI (NUMERO), y con domicilio en (CALLE, NÚMERO, PISO, CIUDAD, PROVINCIA, CODIGO POSTAL).

Ambas partes intervienen en su propio nombre y derecho, teniendo según corresponde la capacidad legal necesaria para el otorgamiento del presente contrato, lo que llevan a efecto en base a las siguientes:

CLAUSULAS

PRIMERA: TITULARIDAD, DATOS REGISTRALES Y DESCRIPCIÓN DEL INMUEBLE.- Que D/D^a. (NOMBRE Y APELLIDOS) es dueño en pleno dominio del inmueble sito en (CALLE, NÚMERO, PISO, CIUDAD, PROVINCIA, CODIGO POSTAL).

El inmueble pertenece a su dueño según escritura, que exhibe y retira, de fecha (DIA, MES, AÑO) otorgada ante el Notario de (CIUDAD) D/D^a. (NOMBRE Y APELLIDOS) con el número (CIFRA) de orden de su protocolo, inmueble que figura inscrito en el Registro de la Propiedad (NUMERO) (CIUDAD), en el Tomo (NUMERO), Libro (NUMERO), Folio (NUMERO), Finca (NUMERO), Inscripción (NUMERO).

La superficie del inmueble es de (NUMERO) metros cuadrados construidos, con la siguiente descripción: (COPIAR LITERALMENTE LA QUE RESULTE DE LA ESCRITURA PÚBLICA).

SEGUNDA: CARGAS.- El expresado inmueble se encuentra libre de cargas según se manifiesta.

(Si tuviera cargas se debe hacer constar exactamente las mismas).

TERCERA: ARRENDAMIENTOS.- Asimismo el inmueble objeto de este contrato se encuentra libre de arrendatarios, ocupantes y precaristas, según se manifiesta.

CUARTA: OBJETO Y PRECIO.- D/D^a. (NOMBRE Y APELLIDOS) se obliga a vender el inmueble descrito en la cláusula primera de este contrato como cuerpo cierto, libre de cargas, arrendamientos y al corriente de pago en toda clase de contribuciones, impuestos, tasas, autonómicas y municipales, gastos de comunidad etc, y D/D^a. (NOMBRE Y APELLIDOS) se obliga a comprar el inmueble en cuestión.

Las partes acuerdan como precio total de la futura compraventa el de (CANTIDAD

EN NUMERO Y EN LETRA) pesetas.

En este acto D./D^a. (NOMBRE Y APELLIDOS) entrega a D./D^a. (NOMBRE Y APELLIDOS) a cuenta del precio total y en concepto de arras la cantidad de (NUMERO Y EN LETRA) pesetas, cantidad que la parte compradora perderá si incumpliera lo convenido en este contrato, y la parte vendedora deberá devolver en el doble de su cuantía si incumpliera lo convenido por su parte en el presente contrato.

D./D^a. (NOMBRE Y APELLIDOS) da por recibida la cantidad entregada en concepto de arras otorgando mediante este documento formal carta de pago.

QUINTA: OTORGAMIENTO DE ESCRITURA PUBLICA Y PLAZO.- Ambas partes se obligan a otorgar escritura pública de compraventa en el plazo de (NUMERO) días naturales.

En ese acto D./D^a. (NOMBRE Y APELLIDOS) pagará la parte del precio que queda pendiente y D./D^a. (NOMBRE Y APELLIDOS) harán entrega de la posesión y de las llaves del inmueble.

La elección del Notario autorizante corresponderá a la parte compradora que comunicará a la vendedora, Notaría, día y hora para el otorgamiento dentro del plazo indicado en esta cláusula.

SEXTA: GASTOS E IMPUESTOS.- Los gastos e impuestos derivados consecuencia del otorgamiento en su día de la escritura pública de compraventa serán por cuenta de cada parte según Ley y en su consecuencia corresponden a la parte compradora los de primera copia de la escritura y posteriores, los de la inscripción de la escritura en el Registro de la Propiedad, el Impuesto sobre el Valor Añadido (SI LA VIVIENDA ES NUEVA) o el Impuesto de Transmisiones Patrimoniales (SI LA VIVIENDA ES USADA) y el del Impuesto de Actos Jurídicos Documentados derivado de la escritura de compraventa. Por su parte a la vendedora le corresponde abonar los de la escritura matriz y el Impuesto sobre el Incremento del Valor de los Terrenos de Naturaleza Urbana.

En prueba de aceptación y conformidad de cuanto antecede, y para que así conste, las partes firman el presente contrato por duplicado ejemplar en el lugar y fecha reseñados en el encabezamiento.

Firma

Firma

Bibliography

- Baker, M (ed.) (1998) *Routledge Encyclopaedia of Translation Studies*, London: Routledge.
- Beeby, A (1996) "La traducción inversa" en A. Hurtado Albir (ed.), *La enseñanza de la traducción*, Castellón: Publicacions de la Universitat Jaume I, D. L., 57-78.
- Beeby, A (1998) *Teaching Translation from Spanish to English. Worlds beyond Words*. Ottawa: University of Ottawa Press.
- Borja Albi, A (1996) "La enseñanza de la traducción jurídica" en A. Hurtado Albir (ed.), *La enseñanza de la traducción*, Castellón: Publicacions de la Universitat Jaume I, D. L., 201-205.
- Goodwin, D & C McLaren (2003) "La traducción inversa: una propuesta práctica" en D. Kelly et al. (eds.), *La direccionalidad en traducción e interpretación: perspectivas teóricas, profesionales y didácticas*, Granada: Editorial Atrio, S.L., 235-252.
- Hickey, L (1996) "Aproximación didáctica a la traducción jurídica" en A. Hurtado Albir (ed.), *La enseñanza de la traducción*, Castellón: Publicacions de la Universitat Jaume I, D. L., 127-139.
- Kelly, D, Nobs, M-L, Sánchez, D & C Way (2003) "La traducción A-B en el mercado profesional" en D Kelly et al. (eds.), *La direccionalidad en traducción e interpretación: perspectivas teóricas, profesionales y didácticas*, Granada: Editorial Atrio, S.L., 43-64.
- Mayoral Asensio, R (2002) "¿Cómo se hace la traducción jurídica?" *Puentes*, 2, 9-14.
- Way, C (2002) "Traducción y Derecho: iniciativas para desarrollar la colaboración interdisciplinar", *Puentes*, 2, 15-26.

Internet:

- Datadiar.com (2002) "Compraventa" *Web Civil. Información para el ciudadano*. Disponible en URL <http://www.webjuridico.net>. Fecha consulta: Diciembre 2003.
- Smart Sense Publications (2004) "Buy a Home" *Our Family Place*. Disponible en URL <http://www.ourfamilyplace.com>. Fecha consulta: Diciembre 2003.

