

If you are thinking of buying a property in Italy, be careful, you might get hurt.

The all Italian saga of Bruno Falzea

Bruno Falzea has been fighting 16 years to own a property he has already paid for. Last month he went on hunger strike to draw attention to his case. Now the same property could be auctioned because after 8 years of legal arguments the construction company went bust and now it is claimed that the property is part of the assets in the insolvency proceedings.

There is a catalogue of unbelievable events that involve not only the construction company (Bicme Costruzioni s.n.c.) but, also, the inexplicable behaviour of the Council administrations that have followed up the case during the past sixteen years; what is also highly questionable is the role of Institutions as well as politicians and lawyers. This kind of institutionalised abuse towards honest citizens is common in Italy and puts the Nation to shame, and it is disturbing to realise that people who hold positions of relevance in Public Office can in some cases behave in this way. No wonder foreign investments in Italy are becoming increasingly infrequent, with businesses steering away from Italian banks and companies, turning their attention somewhere safer.

Bruno Falzea, a surveyor, paid for his property in an area P.E.E.P (popular housing) where people can buy their first home at a political price entering a 99 years lease with the Council; after 99 years the Municipal Authorities can repossess the land (and the home) or transfer the rights to the existing owners.

There is an evident part of responsibility concerning the Council in this sad story, but, despite this, such responsibilities have not only been ignored, but it seems that the Council has in fact actively fought Mr Falzea entering a sort of cruel mind and legal game to obstruct justice and common sense.

In 2005 new legislation was brought in to change the way Italians buy and sell their homes when these are still under construction or even simply a project on paper; since these new laws, after the initial payments, a construction company has to offer a guarantee through a mechanism called *fidejussione* (an agreement with a bank that will cover the buyer in case of bankruptcy of the construction company; a kind of financial insurance). Despite the new

legislation, it is believed that 90% of the construction firms choose to ignore the law and fail to cover the buyers in this way.

In any case, this is far too late for Mr Falzea. We can only hope that the present Council administration can be more sympathetic towards him and try to help rather than obstruct. We shall see. We haven't heard yet of a resolution, but this doesn't mean the newly elected administration is sitting on it. Mr Falzea and his lawyer had a meeting on 29 May 2007 with the Mayor of Grosseto and other Council officials, in front of about 40 supporters of his cause, when an undertaking was given to try to put things right. Perhaps the matter has been resolved? The gazebo where Mr Falzea was demonstrating from, near Piazza Duomo in Grosseto has gone. We hope all is well with Mr Falzea, who has suspended his hunger strike following the 29 May meeting.

WHAT ARE THE IMPLICATIONS FOR FOREIGN BUYERS?

Although it is unlikely that a foreign buyer will be eligible to apply for ownership of a home in area P.E.E.P, there are still some aspects that one needs to be aware of, when buying in Italy in normal areas. The main risks are encountered when buying on paper, i.e. when the buyer puts money up front for a property still under construction or before building begins. If the construction firm goes bankrupt the money could be lost, unless a *fidejussione* was put in place as a guarantee, but we know that most firms choose to ignore the law. When buying an old property, the problems relate to the procedures that are in relation to lack of searches a buyer would normally carry out on the property and the fact that no solicitors are normally involved. Then, how does it work in other nations? Let's compare the British system with the Italian.

HOW BUYING AND SELLING WORKS IN U.K.

For our Italian English speaking readers, this is how it goes.

A person wishing to sell a home in U.K. can do it either privately or through an estate agent. An estate agent will charge up to 2% of the total marketing price.

The marketing price is the only price involved in the transaction; that is to say,



Mr. Conafi, Mr. Bruno Falzea and lawyer Carollo

there is no such thing as a *catasto* price to be considered when you buy or sell. There is, however, an *insurance* value of the property, which is considerably lower than the price on the market; the insurance value is what is deemed to be the cost of *reconstruction* in case of a calamity such as fire, flood, an aeroplane landing on the roof, and so on.

The insurance value doesn't come into the transaction.

When the price falls above a certain limit, a tax (stamp duty) is due to the State.

This is the only time a property in UK will be deemed to procure an *income*, and in any case it isn't taxable, unless you go over the ceiling and have to pay stamp duty; unlike in Italy where (why?) a property is calculated to give a *reddito catastale* (an income) regardless; this is in fact really strange, as a property does not generate income unless you let it or sell it at a profit (but-hey, this is Italy, what can you expect?).

When a buyer is found, the seller will instruct a solicitor who will take the process to the end, taking care of literally everything. The buyer, on the other hand will do the same. The parties involved in the transaction might not need to speak or see each other again (the two appointed solicitors will speak and write to each other and report to their clients). What is good about this system is that both buyer and seller are *protected*.

The buyer's solicitor will produce a set of enquiries on a standard form for the seller to answer, and at the same time will instigate a search in the local Council to discover if there is anything that might affect the value of the property: for example, are they

planning to build a runway for a new airport next to the back garden, or is the road at the front, now apparently so quiet, going to be a major bus route into town.

Everything can have an effect on negotiations, and the buyer can ask to have the price dropped, if anything at all is highlighted during the search.

Finally, a final price is agreed. Contracts are signed and exchanged and a *completion* date is set, which is when money actually gets transferred from the account of the buyer to the account of the seller.

HOW DOES IT WORK IN ITALY?

Again, you can sell privately if you find your own buyer. Amazingly, no solicitors are normally appointed to protect the interests of the buyer or of the seller.

Buyers rule. After signing a document of intent (*compromesso*) and paying a small deposit, the buyer drives the whole thing, because the seller *has to sell and cannot change his/her mind* (unless this happens within a few days from signing the *compromesso*).

A date for the *Rogito* (*completion day*) is set. This will take place in the offices of a Notary Public.

BUT WHAT IS A ROGITO?

The role of the Notary Public.

We are sorry to disappoint our readers, and if some of you happen to be Notary Publics, well, sorry, you have just been made redundant. In U.K. you don't need one for buying or selling homes. In fact, you are unlikely to need one ever. All legal aspects are handled by solicitors, which makes sense, because

they are bound to protect the interests of their clients. The beauty of this system is that *everyone* is protected. For a reasonable fee.

In Italy the transaction is supervised by a Notary Public: a Notary Public is *neutral* and leaves both buyers and sellers uncovered: in fact it *only takes money* with the excuse that in Italy the State must be represented every time money transactions occur between citizens. Which is obviously ridiculous and oppressive.

A *Rogito* could be defined as a kind of bureaucratic sermon, during which the Notary Public will throw the civil code at both buyer and seller, mentioning laws identified by incomprehensible terminology and numbers, leading to the final all important statement that nails the buyer in his/her coffin: "The parties having understood what has been said, we declare the transaction valid blah-blah please sign here" (this isn't the actual wording, but in substance this is what happens), which the parties involved do (sign) because the buyer wants to buy and the seller wants to sell. So, if they are really planning that runway next to your garden, it won't be known until the diggers turn up outside. As it happened to a British family who bought a farmhouse in northern Italy in 2004 to convert it into a bed and breakfast (true).

BE VERY CAREFUL

So if you are buying in Italy keep the above facts in mind, and remember you might have to do the searches yourself, if you want to avoid being stitched up by the Italian bureaucratic system.

Having researched all aspects of your purchase, you might be surprised to find out that Notary Publics suddenly-invariably - need to leave the room perhaps to visit the bathroom, leaving buyer and seller alone. Perhaps buying and selling in Italy induces bladder incontinence, but we suspect there is another reason.

We will not tell you why they leave the room, because we are in Italy: it's one of those things everybody knows but cannot be openly discussed; if I did, I'd probably get into trouble. So I won't.

TO CONCLUDE

The Bruno Falzea story reflects badly on Italy and it points the finger directly at the Institutions and their relationship with the tax paying

citizen.

The Institutions in Italy need to rediscover that basic principle that makes them Servant to the people. Institutions have the duty to make life easier for the citizens, not more complicated, particularly when we pay the taxes to pay the wages of those who work in them.

You can support Bruno Falzea by sending a message to the following e-mail addresses:

- To the Mayor: emilio.bonifazi@comune.grosseto.it
- To the Councilor: anna.guidoni@comune.grosseto.it
- To the Prefect: prefetto.grosseto@utg.prefettura.it
- To the Bishop: segreteria.vescovo@tiscali.it
- To the president of Grosseto's Tribunal: tribunale.grosseto@giustizia.it

The suggested wording: "The events that have led to the hunger strike of Bruno Falzea in Grosseto, Italy, have come to our attention from the press and television. We seem to understand that a solution exists that won't damage anyone. We trust that all that can be done will be done, but we ask you to act with some urgency. The gazebo near Piazza Dante has gone. Has the matter been resolved? We would appreciate your reply"

AUCTIONING OF HOMES IN ITALY

There are thousands of properties being auctioned in Italy at the moment, mainly due to construction companies going bust, but also for non-payments of bills of some kind (it could be a fine you never paid years ago because it got stuck in the post and never got it, that doubled up in value and accumulated interests, or non payment of Council tax, when the Council passes on the matter onto a debt-collecting agency); in some cases, owners are not informed their home is being sold in an auction.

In the meantime, at the beginning of June 2007, another building site has been confiscated by the Authorities in Grosseto, for reasons not very clear to the naked eye, a lot called "Il Castiglione", leaving another 36 families in similar predicaments to those of Mr Falzea. Many of the flats were nearing completion, and as usual money had been put up front by the families now facing ruin. This isn't the Italy we like.