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In Spain, Homes Are Taken but Debt Stays

By SUZANNE DALEY

MADRID — Manolo Marbán, 59, is still living in his house in Toledo and going to work in the small pink-and-aqua pet grooming shop he bought here in 2006, when he got swept up in Spain's giddy real estate boom.

But Mr. Marbán does not own either anymore. The bank foreclosed on both properties last April, and he is waiting for the courts to issue the eviction notices. For many Americans facing foreclosure, that would be the end of it. But for Mr. Marbán and thousands of others here, it is just the beginning of their troubles. When the gavel falls on his case, he will still owe the bank more than $140,000. "I will be working for the bank for the rest of my life," Mr. Marbán said recently, tears welling in his eyes. "I will never own anything — not even a car."

The real estate and banking excesses in Spain were a lot like those in the United States. Construction boomed, prices rose at an astonishing pace and banks gave out loans just as fast, often to customers like Mr. Marbán, who used the equity in his house to finance a mortgage for his shop. But those days are over. Spain now has the highest unemployment rate in the euro zone — 20 percent — and real estate prices are dropping. For many Spaniards, no longer able to pay their mortgages, the fine print in the deals they agreed to years ago is catching up with them.

Not only are Spanish mortgage holders personally liable for the full amount of the loan, but throw in penalty interest charges and tens of thousands of dollars in court fees, and people can end up, like Mr. Marbán, facing a mountain of debt. Bankruptcy is not the answer, either. Mortgage debt is specifically excluded here.

"Effectively, you can never get rid of this debt," said Ada Colau, a human rights lawyer who works for Plataforma, a new advocacy group formed both to give legal advice to homeowners and to push for reform of the country's foreclosure laws. "Other countries in the European Union also have personal debt mortgages, but you can go to the courts and get relief. Not in Spain."

Several opposition parties in Parliament have been pressing for amendments to the country's foreclosure laws, including letting mortgage defaulters settle their debts with the bank by turning over the property. But the government of José Luis Rodríguez Zapatero has opposed such a major change in lending practices. Government officials say Spain's system of personal guarantees saved its banks from the turmoil seen in the United States.

“It is true that we are living a hangover of a huge real estate binge,” said Marcos Vaquer, who was the under secretary of the Housing Ministry until a government reshuffle last week. “And it is true that far too many Spaniards have excessive debt. But we have not seen the problems of the U.S. because the guarantees here are so much better.”

Immigrants who moved to this country in the boom years and were the first to lose their jobs in the downturn, like Jaime Abelardo, have been the most severely affected so far. Mr. Abelardo arrived in Barcelona from Ecuador in 1999 with the promise of a job in a warehouse. A few years later, he could afford to bring his family over and buy a tiny apartment. Or so he thought. But within two years, he was laid off. He blames himself for not having been more cautious. Still, he cannot get over the figures printed on the dog-eared papers he has received from the bank.

They say he now owes nearly 260,000 euros, almost $360,000, which includes about 77,000 euros to cover all court costs, including the bank’s, his lawyer said. He bought the apartment for less than that — about 220,000 euros, he thinks, though many aspects of the deal were never clear to him. His wife has left him. His unemployment payments are about to run out. He would like to go back to Ecuador with his four children, but he does not have enough money. “I’m thinking about shooting myself,” he said.

An estimated 1.4 million Spaniards are facing potential foreclosure proceedings, according to Spain’s consumer protection association, known as the Adicae. Recent figures from the courts show that the numbers are rising fast. In 2007, there were just 26,000 foreclosures. Last year, there were more than 93,000. Early indications suggest that they will be higher again in 2010.

A recent Standard & Poor’s report found that 8 percent of Spain’s housing is now worth less than the value of the mortgage, and with prices continuing to fall, experts believe, that figure could rise to 20 percent.

Advocates say that Spain’s foreclosure procedures tilt far too much in favor of the banks, virtually guaranteeing that mortgage defaulters will end up owing large amounts after they lose their homes.

Banks have the right to auction houses in foreclosure. If no buyers appear, as is often the case these days, the bank can take ownership of the house for 50 percent of its value, according to the estimate either at the time of purchase, or at the current time, depending on what the mortgage specifies. The banks then have 15 years to go after the homeowner.

If the banks initiate proceedings at any point, the clock starts ticking again, experts say. In the meantime, the bank can charge interest on that debt.

Montse Andrés Sabaté, a lawyer with Ausbanc, a consumer association that specializes in banking services, says the banks usually charge 5 or 6 percent, but sometimes much more.

“We’ve seen 18 or even 19 percent,” Ms. Andrés said.

And then there is the matter of guarantors. Bankers pressed many homeowners to find guarantors at the time they took out the mortgages or when they began to struggle to make payments. Mario Gozálvez, a truck driver, asked his 23-year-old daughter to act as a guarantor when he used the equity in his Barcelona apartment to buy a truck three years ago. At the time, she did not even have a job, and he thought of it as a silly formality. Now, she faces a lifetime of paying off his debts.

“She may not be able to inherit anything from her mother because the bank can seize it,” Mr. Gozálvez said. “No one explains this.”

Early in the crisis, experts say, the banks were lenient with immigrants who had no assets and accepted the property as payment for the loan. But some advocates say they are tougher now. Under the law, the banks have the right to collect a percentage of a debtor’s income if it is above $835 a month.

Santos González Sánchez, the chairman of the Spanish Mortgage Association, says it is the bank’s duty to try to collect. “This helps to explain why our financial entities have not gone bankrupt,” he said.

Personal liability mortgages are common in Europe. But advocates here say that aspects of Spain’s procedures — how quickly banks can foreclose, the interest rates they can charge and the repayment schedules they can demand — are particularly severe. This month, even Mr. Zapatero’s party joined in voting for a parliamentary motion to slow foreclosure proceedings.

Mr. Marbán knew he was in trouble within months of buying the pet store as his business began to taper off. To keep the bank from foreclosing, he gave it whatever he could scrape together. At one point, he sold his car at a huge discount to meet a payment. Eventually, he sold his wife’s gold bracelet.

But it was no good. He could never catch up on what he owed.

“It’s funny, when I finally lost the house, I started sleeping,” he said. “I cry sometimes, but at least I sleep now.”

Rachel Chaundler contributed reporting.