

The pro's and con's of making a claim against Anfi (updated March 2018)

In 2015 the Spanish Supreme Court held that many of Anfi's contracts entered into after 5 January 1999 were illegal and could be declared null & void. The Court can then order Anfi to repay to the timeshare owner all sums paid to Anfi.

This first decision has been confirmed by the Court many times.

Here is the lowdown on claims - the good news and the bad!

Pro's	Con's
You can make a claim IF:	
<ul style="list-style-type: none">• you bought directly from Anfi	Resale owners cannot claim - the claims are based in Spanish consumer protection law which does not apply to resale purchases.
<ul style="list-style-type: none">• you bought or upgraded your timeshare contract after 5 January 1999• it is your current contract that counts - not any earlier contract, if you have upgraded since 5 January 1999	<p>If you bought before that date you may still be able to make a claim, but on a different basis, i.e. previous Spanish consumer protection law and specific Canary Islands law in force before 1999.</p> <p>Unfortunately such claims are limited to the amount of the basic purchase price and legal interest.</p> <p>Early First Instance Court decisions in these cases were not encouraging but a recent appeal decision from the High Court in Las Palmas has upheld an appeal and awarded a</p>

Pro's	Con's
	payment to the claimant.
Points contracts?	Members holding 'points' contracts without underlying 'weeks' should discuss their position directly with their lawyers.
Your claim is for:	
* the purchase price AND	In March 2016 the Supreme Court decided that a deduction could be made for years 'enjoyed' at Anfi. This is taken into account in all new claims registered.
* any amount you paid within 3 months of signing the contract (this may mean your principal claim is for double the whole or part of the original purchase price (no deduction is made from this part of the claim for years 'enjoyed' at Anfi.) AND	<p>Not all of the five First Instance Courts are awarding this amount. It may be necessary to appeal a First Instance decision.</p> <p>Some First Instance Courts are applying a principle of 'unfair delay' as the reason for not awarding the double payment.</p> <p>Our advice is that this reasoning is incorrect and in cases where this has been the outcome we are being advised to appeal the decision.</p>
* legal interest from the date your claim is registered	

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<p>An application will also be made to the Court for your legal fees and costs to be paid by Anfi</p>	<p>An award of costs is in the judge's discretion and not all of the five First Instance Courts have awarded legal costs. The most common outcome so far is that no legal costs have been awarded to either party and so each party has to bear their own costs.</p> <p>We are advised that once your claim has been through the pre-trial hearing, you can no longer amend your claim to take account of recent decisions of the Supreme Court nor can you introduce new evidence, e.g. of proof of payment. This procedural iniquity may result in a partial 'win' for Anfi in part of your case, e.g. a deduction for time 'enjoyed' as Anfi or non-award of a maintenance fees claim (see below), and as a consequence the Courts are not awarding any legal costs to claimants or to Anfi.</p> <p>Also note that some minor costs, e.g. translation costs, and UK notarial costs are not recoverable.</p>

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	<p>You may also be required to attend the First Instance hearing in Gran Canaria in person. You will have to bear this expense and it is not recoverable even if your claim is successful.</p>
<p>Until late 2017 claims were also made for maintenance fees paid since the date you purchased your timeshare on the basis that the maintenance contract depended wholly on the legality of the purchase contract and, if the purchase contract was illegal, so was the maintenance contract.</p>	<p>From the first decisions to be received not all of the five First Instance Courts awarded amounts for maintenance fees. Finally in September 2017 the Spanish Supreme Court upheld an Appeal by Anfi which ruled out the possibility of claiming maintenance fees.</p> <p>In new cases these are no longer being claimed.</p> <p>Claims for maintenance fees in current cases are being withdrawn at the pre-trial hearing stage wherever possible, so as to improve the chances of receiving an award costs.</p>

Pro's	Con's
<p>Timescales: the first batch of Anfi UK members' claims were registered at Court on 27 October 2015 and the first two pre-trial reviews took place on 18 April 2016 – these two claims were heard in their full hearings on 5 September 2016.</p> <p>Anfi have done and will continue to do everything possible to obstruct and delay the hearings.</p> <p>The first AnfiUK member to receive payment did so at the end of May 2017 - this was 19 months after their claim was registered.</p> <p>This is not an unreasonable timescale.</p>	<p>Most of the 120+ AnfiUK members' claims have now had their pre-trial and first instance hearings and many have also received decisions. But as some of these were filed in October 2015 it is clear that it can easily take 18-24 months or more to receive a decision.</p> <p>If successful it is likely to take a further 6 months before any payment is received and any appeal could take still longer to resolve. Some cases have already been waiting over 12 months for an appeal decision.</p> <p>These timescales are outside your lawyers' control.</p>

Pro's	Con's
<p>Payment:</p> <p>Payment of the amount awarded, except any legal fees awarded, is due after a successful first instance hearing: this is so even if Anfi appeal the decision.</p> <p>However Anfi have done and will continue to do everything possible to delay payment of the sums awarded, i.e. by challenging execution proceedings and appealing the first instance decisions.</p>	<p>Anfi have invariably refused to pay following a first instance decision and so members have had to incur further legal fees to fund execution proceedings.</p> <p>Anfi have appealed all successful claims against them to date - so members have also had to incur additional legal fees to defend these appeals.</p> <p>You should expect have to pay all the legal fees and costs set out within your fee agreement.</p>

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<p>Legal fees: AnfiUK has made an exclusive arrangement for members with Spanish law firm JLCA based in Alicante, which entitles members of the Club to preferential agreed fixed legal fees and costs. Details of these are available in the attachments to the earlier post on the Claims Forum "<i>A Quick Guide to making claim against Anfi</i>".</p> <p>Legal fees are based on the purchase price paid for the timeshare, not the value of the claim. Members are of course free to use any lawyer of their own choosing.</p> <p>The arrangement made with JLCA gives AnfiUK members a better deal on legal fees than that offered by any of the claims management companies. Most significantly all sums recovered from Anfi are yours - 100%.</p> <p>Alternatively JLCA have recently offered a third party funding arrangement to AnfiUK members where a third party funder will fund your claim, assume the risk and then deduct standard rate legal fees, legal costs and a % of the amount of the award as their payment.</p>	<p>To take advantage of the exclusive arrangement for AnfiUK members, JLCA require the payment of legal fees and legal costs up front, payable in instalments over an agreed period.</p> <p>You should ensure that you remain a fully paid up member of AnfiUK throughout the period that your claim is going through the Courts (estimated at 2-3 years) to preserve your entitlement to discounted legal fees. Quite frankly, you are likely to want to maintain your membership anyway so you can access information about the latest developments on the Claims Forum. If you do not maintain your membership you may be asked to pay legal fees for execution or appeal proceedings at JLCA's standard rates.</p> <p>If you decide to use the third party funder, the legal fees and % deducted from the amount awarded to you will be significant. This option is really only of benefit to members who are unable to pay legal fees up front.</p>

Pro's	Con's
JLCA will provide without charge or obligation a FREE initial review of your contracts, confirmation that you have a claim, the value of that claim and a fixed fee quote (including fixed fees for any additional execution or appeal costs that may be payable).	
If you decide to go ahead they will put in place a formal fee agreement with you and guide you through the process. A template of this fee agreement is also available as an attachment to the post " <i>A Quick Guide to making claim against Anfi</i> ".	
JLCA provide each client with a login and password so you can monitor the progress of your claim on their system.	
Members can contact JLCA directly by email, telephone or post.	
JLCA have a London office with UK based staff and staff from Spain also visit the UK regularly and are available to meet AnfiUK members in person. You can contact the London office to arrange an appointment.	

Members who would like more detail should read the documents attached to the 'sticky' post *A Quick Guide to making claim against Anfi* available on the Claims Forum of our Members' website.