



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ
REPUBLIC OF CYPRUS



AMBASSADOR, PERMANENT REPRESENTATIVE OF CYPRUS
TO THE EUROPEAN UNION

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Property rights in the Republic of Cyprus

Your reference: GW/JS/O'Ha001/1

I refer to your letters on the above subject in which you enquire as to the steps the Government of Cyprus is taking in order to encourage banks to notify property owners with regards to the existence and size of pre-existing mortgages on their property and I wish to inform you of the following:

The new legislation provides more protection and security to the buyers of property even in cases where there is a prior mortgage on the property.

Under previous legislation, in order for the mortgaged property to be transferred to the purchaser, it was necessary that the vendor paid off his mortgaged debt to the creditor. Where the vendor was unable to perform his obligations against the creditor, the purchaser could not activate his right for specific performance, because of the existence of the previous mortgage, unless he paid off the mortgage debt himself.

The new legislation provides the opportunity to the purchaser, when the object of the sale is mortgaged, to pay the amount due each time under the sale contract, to the mortgage creditor directly and not to the vendor. When the purchaser pays that part of the mortgage debt that corresponds proportionally to the value of the property he has purchased as compared to the total value of the property mortgaged, the Court may issue an order for specific performance, ordering the registration of the property in the name of the purchaser free from the encumbrance of the mortgage. The part of the mortgage debt that is attributable to the purchaser is determined by the ratio of the value of each property under sale, in relation to the total value of the mortgaged property ("value ratio"). The purchaser can ask the vendor to inform him of the value ratio of the property under the sale in order to be aware of the part of the mortgaged debt apportioned to him.

The new legislation also provides for the deposition by the seller of the planning permit and the relevant plans attached to it, at any time before the sale of any part of his property to any purchaser. The "value ratio" is determined in accordance to the planning permit.

Despite the fact that the "value ratio"/planning permit must be deposited at the same time when the sale contract is deposited at the Land Registry, in the new legislation this does not constitute a precondition for the deposition of a contract of sale.

Therefore, the Director of the Department of Lands and Surveys has given written directions to all the District Land Officers that in cases where the value ratio has not been determined and deposited by the seller at the stage of the deposition of a sale contract, the Land Officer in charge must inform the applicant who deposits the sale contract that in order to be able to make use of the new provisions of the legislation (providing for the priority of the contract of sale over the pre-existing mortgage) it is necessary for the buyer to deposit to the mortgagee/creditor the mortgaged debt that corresponds to the part of property he bought and that this is determined by the "value ratio".

Therefore, today there is a way (provided by the legislation) for the buyer to find out about the size of the mortgage debt without any need to request any information from the banks directly.

As for the existence of the previous mortgage, although the new legislation does not make any provision for this, the Director of the Department of Lands and Surveys has given written directions to the District Land Officers in charge of the acceptance of deposits of sale contracts, to inform the applicants before they proceed to the acceptance of their sale contracts for the purposes of specific performance of the existence of a previous mortgage on the property, the object of the contract of sale.

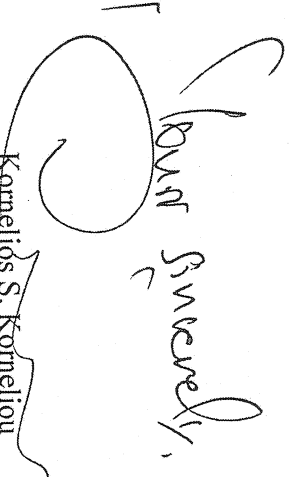
Therefore, the applicants are asked to sign a written declaration on the form of application for the deposition of the contract of sale that they have been informed of the existence of the specific encumbrance and that despite that fact they are willing to proceed with the deposition of their sale contract.

It must be emphasized at this point that in all events the purchaser of a unit of property, has the right to apply to the Director of the Department of Lands and Surveys before buying any property, and ask to be furnished with a Search Certificate, thus finding out about the existence of a pre-existing mortgage on the property. Under section 51A of the Law, Cap.224, the Director of the Department of Lands and Surveys may provide any interested person with any information recorded in the Land Register or in any other book kept with any District Lands Office, current or previous, including amongst others, any encumbrances on the property in question.

Finally, it is worth mentioning that the new Law secures the amount paid by the purchaser, where the specific performance of the contract is not possible, either due to inability on the part of the vendor to release the object of the sale from any encumbrances or due to the sale of the property or for other reasons. A similar security is provided also where the

Court, instead of a specific performance order issues an order for compensation. In both cases, the amount is secured in accordance to the priority of the encumbrance created by the deposit of the sale contract.

I remain at your disposal for any further information you may require.


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