



# Legal developments in relation to the entrapped buyers' legal regime

The amending law N110(I)/2025 was published on 4th July 2025, amending the Transfer and Mortgaging of Immovable Property Law of 1965.

Two prerequisites have been added for the submission of an Entrapped Buyer Application (EBA), which did not exist previously:



- 1) a title deed must have been issued for the property. This means that the number of properties that will be able to benefit from the procedure is significantly reduced, and
- 2) if there are encumbrances predating the sale agreement, then either the written consent from the beneficiaries of these encumbrances must be submitted or an application must be filed at court by the buyer and a relevant order must be secured which will recognize that the beneficiary of the encumbrance (for example, the mortgagee) is refusing abusively and unjustifiably to provide the said consent. When this application to court is submitted, then auction procedures (among others) are suspended until the issuing of the order.



Regarding the aforementioned application to court, we interject here to note that procedurally it appears that the buyer will approach the mortgagee with a letter, he will request their consent for the transfer, and the mortgagee will respond stating whether they agree or not to the transfer. Subsequently, the buyer will have 45 days to file an application with the Court, and the application will be served on the mortgagee to state their position before the Court. Following the general evidentiary rule, the buyer with their application to the Court will have the burden of proof to prove that there is an abusive/unjustified refusal by the mortgagee.





Regarding the aforementioned requirement for the existence of a separate title deed, there is a special provision for trapped buyer applications that are already registered. These can only be examined if the issuance of a title deed is feasible and the title deed has been issued within 2 years and 8 months "from the date of commencement of the validity of the above-mentioned Law and after relevant notification by the Director".



Older applications



Furthermore, for old applications, within 8 months of the relevant notification by the Director of the Land Registry, the following must be submitted: (i) In case of division of buildings with horizontal division and/or vertical separation of land and buildings, a certificate of the building permit of the development which was issued in accordance with the provisions of articles 10, 10B or 10C of the Streets and Buildings Regulation Law or (ii) in case of land division, certification that notification of completion of the development works has been submitted in accordance with the provisions of paragraph (2) of article 10 of the Streets and Buildings Regulation Law. It is understood that in case there is a valid planning permit and/or building permit on the date of commencement of validity of the amending Law, the 8-month deadline is deemed to begin from the expiration date of the said permit or from the expiration date of the first extension.



It is also important that the Director is expressly given the power to reject applications that do not meet the requirements of the Law. This is important for mortgagees, because it was observed during the application of the previous Legislation that the Land Registry did not reject trapped buyer applications that did not meet all the prerequisites for a transfer to take place but left them pending.

Additionally, article 44IB of the Law is amended. Now, if an auction procedure is completed by a mortgagee and there is a registered EBA on the property, the application for transfer that the mortgagee will submit to the Land Registry must be accompanied by certification from the competent authority that the issuance of a title deed is not feasible in accordance with the provisions of the Streets and Buildings Regulation Law.





How we can  
help



Our team advises on a wide range of contentious and non-contentious property and construction matters, and on amendments to property and construction laws, ensuring compliance with new regulations.

We provide legal assistance and representation, in and out of court, regarding all stages of an entrapped buyers application.



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