

# Restarting the Procedure for Trapped Buyers in Cyprus with Restrictions

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Following the decision of the Supreme Court of Cyprus, which ruled that key provisions of the Law on trapped buyers were unconstitutional, the Land Registry Department had suspended the process of evaluating and examining the relevant applications.

The Law aimed at transferring title to buyers who had paid off their purchase, even if the property had been mortgaged by the seller (usually a developer or land development company) in favour of banks. The Court held that these provisions violated the constitutional rights of creditors as they bypassed mortgages or other encumbrances.

Recently, the Cyprus Land Registry and Surveying Department has been instructed to resume the procedure for trapped buyers under the existing legislation, but with a key restriction: the issuance of title deeds will only proceed if there are no prior encumbrances.

This means that applications from trapped buyers will be dealt with as normal; however, if mortgages or other encumbrances are found to precede the sale deed, no title deeds will be issued unless these encumbrances are settled. Conversely, if the property is "free and clear" of encumbrances, the title may be issued as normal.

This decision constitutes a partial restoration of the operation of the previous legal framework. Although the possibility to intervene in favour of buyers in cases of encumbrances is limited, the possibility to issue titles for clean cases is restored.

The resumption of the procedure is a positive development, providing relief to thousands of citizens who have been waiting for years for a title deed. However, the limited application of the procedure excludes a large number of cases where mortgages exist, leaving legal uncertainty until the adoption of a new legislative framework.

Most worryingly, many buyers, despite having paid the price in full, continue to be deprived of title due to errors or omissions on the part of sellers.

The new legislation should establish a clear legal presumption in favour of the buyer, provided that he has paid the price in full, owns the property and has registered the sale deed in the Land Registry in time. The bona fide purchaser should be particularly protected when he or she was not in a position to know of the existence of encumbrances at the time of purchase.

The legislation should also take into account that in the past there was no legal obligation to check the encumbrances and no requirement for the deed of sale to be drawn up by a lawyer. This left room for misrepresentation by the seller or developer. Therefore, the new regulation should establish mandatory written notification by the seller of all burdens, with strict penalties for any concealment or false declaration.

In addition, the creation of a Special Administrative Committee can make a substantial contribution. This Committee will consider on a case-by-case basis whether the buyer has acted in good faith and whether there are possibilities for removing or releasing the encumbrances thus enabling the issuance of the title deeds.

In terms of financial and legal mechanisms, it is proposed to make it compulsory for buyers' payments to be assigned to creditors through escrow accounts, particularly where there are pre-existing mortgages. This will ensure that the buyer's money goes directly towards paying off the debts that bind the property.

Another important provision would be the possibility for the State to repay part of the relevant debt to the bank so that the transfer of the title to the buyer can proceed, substituting the State for the creditor's rights. This mechanism could be supported by a special fund or guarantee mechanism.

It should be noted that similar practices are already in place in countries such as France, Germany and Spain, where the State intervenes in cases of social injustice or the need to protect citizens. Cyprus has the opportunity to build on these international experiences and become a model of social and legal innovation at European level.

The recent Supreme Court ruling has highlighted the serious constitutional weaknesses of the previous legislation. The partial relaunch of the procedure, limited only to cases without encumbrances, is positive but not a comprehensive solution. A meaningful and sustainable response to the problem of trapped buyers requires a new, balanced legislative approach that will ensure fairness, security and confidence in the Cypriot property market.

*The content of this article is valid as at the date of its first publication. It is intended to provide a general guide to the subject matter and does not constitute legal advice. We recommend that you seek professional advice on your specific matter before acting on any information provided. For further information or advice, please contact Savvas Savvides, Senior Partner, Paphos Office of Michael Kyprianou law firm at Tel +357 26930800 or email [savvas.savvides@kyprianou.com](mailto:savvas.savvides@kyprianou.com)*