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By PwC Deutschland | 25. Juni 2025

ECJ: Consumer protection and effective judicial protection in case of foreclosure of family home

Following a request for a preliminary ruling from Slovakia, the European Court of Justice (ECJ) decided that consumer protection and the requirement of effective judicial protection mean that consumers must be able, under certain conditions, to challenge the lawfulness of the transfer of ownership to a third party following the enforcement of a mortgage on their family home.

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Background

The Regional Court of Slovakia had to deal with a case where a company, which was awarded a family home following an extrajudicial sale at auction, is seeking to obtain the eviction of the former owners of the building. Those owners were granted a mortgage on that home. They claim that their consumer rights have been infringed and have refused to vacate the premises. That court has asked the Court of Justice whether such judicial proceedings fall within the scope of the Directive on unfair terms in consumer contracts. It also asked whether that directive precludes national legislation which allows extrajudicial enforcement of a mortgage despite the existence of an application for suspension of the enforcement proceedings based on a potentially unfair term in the loan contract.

Decision

Both of the aforementioned issues were confirmed by the ECJ. Consumer protection and the requirement of effective judicial protection mean that consumers must be able, under certain conditions, to challenge the lawfulness of the transfer of ownership to a third party following the enforcement of a mortgage on their family home.

That applies if those consumers have been deprived of the possibility of obtaining, by judicial means, the suspension or annulment of that enforcement on the grounds of the existence of an unfair term in the contract on which that enforcement was based, despite corroborating evidence as to the potential unfairness of that term and of the fact that the transferee was informed of the existence of such judicial proceedings at the time of the transfer of ownership.

More details to be found **here**.

Source:

ECJ judgment of 24 June 2025 **C?351/23** *GR REAL*.

Schlagwörter

consumer protection