

Deadline draws close for new Cyprus limitation law

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A new law in Cyprus will make it virtually impossible for people to issue claims against banks and developers in Cyprus after 2013. The law could have a devastating impact on UK property investors that have not acted fast enough and overall losses could run into billions of Euros, according to some estimates.

But property investors have had ample time to register their complaints as originally the expiration date was set for 1st of July this year, which was the end of a one year transition period from the date of the laws adoption to allow all property owners to issue proceedings. However, in May this year the Greek parliament voted to extend the transition period for six months and it will now expire on 31st December 2013.

There will not be another extension however as Greek MPs voted that a further extension beyond the end of this year would make the new law pointless.



Further comment

Duncan McNair, solicitor at Cubism Law, says: "I am a London-based lawyer conducting a growing number of urgent cases for Cyprus residents. Many are UK expats in Cyprus. They are taking urgent steps in response to the new Cyprus limitation law which is very little known in Cyprus by residents or lawyers. Amongst them are victims of mortgage mis-selling (typically but not always in Swiss Francs), or where the property was never completed or adequately finished.

"Quite recently the Cypriot Parliament passed a new law which will have the effect of preventing these claims being brought unless they are brought very quickly – by 31 December 2013."

However, McNair says that in practice claims should be brought even earlier than the last day of the year and preferably before mid-December when the Cypriot Courts start closing down for Christmas.

He also says that it is important that you issue protective proceedings in England before you issue them in Cyprus. "If you only issue protective proceedings in Cyprus you will be subject to their legal system. Far more people (both English and Cypriot) would prefer to trust their cases to the English system rather than the Cypriot system. This is what we are doing for our clients", says McNair.

But what exactly is the new Limitation Law in Cyprus? McNair says: "The Cypriot Parliament passed law 66 (I) of 2012 and it came into force on 7 July 2012. It says that your claim must be brought within set times, otherwise you lose the right to bring the claim.

"If you have a complaint about your Cypriot property or Cypriot loan, you may want to sue the developer or bank. Most people want to sue in their home court (England) because they have more confidence in that system than in the Cypriot system."

However, McNair says that rather than choosing which legal system to make your claim, you should register your claim in both countries. He says: "If you sue a Cypriot developer or bank in England, they can argue that the case should be heard in Cyprus. If they win that argument, you would have to sue in Cyprus. But you won't be able to if time has run out.

"You can issue a writ in Cyprus to protect your position, so that if you cannot sue in England, you still claim in Cyprus and time will not have run out there. This does not mean that you will sue in two courts at once. The idea is that the Cyprus writ only gets going if the English court decides that you should sue in Cyprus. If you issue a writ in Cyprus, you will have a year before you need to serve it on the Cypriot defendants. Even if you serve it when the year is up, the writ will make clear that it is in second place to your English claim."

In short, McNair says that a UK owner of property in Cyprus should issue a claim form in England as their first option as soon as possible then issue a writ in Cyprus as their second option, after you have issued the English claim form and before 31st of December 2013.

He concludes: "The above outlines a new law. It has been very little advertised and yet it has a potentially devastating effect. Very few Cypriot lawyers appear to be familiar with this law and I have been asked by several clients to explain it to their Cypriot lawyers. The Greek text of the law is not easy to understand but I can provide a copy upon request."

Finally, he adds: "The costs involved in bringing protective proceedings in England and Cyprus are very small compared to the risks and losses of taking no steps."

In mid-November, a glimmer of hope came for those that have purchased homes in Cyprus with Swiss Franc loans as the Montenegrin appeal court ruled that a bank cannot profit from interest charges AND exchange rate movements.

PIN will be looking at the implications of this court ruling in more detail next week.