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INTERIM ORDERS - RESTRAINING THE ALIENATION OF IMMOVABLE PROPERTY

It is only reasonable that any person, physical or legal, who considers on initiating a legal dispute (in order to claim a due debt, compensation or any other remedy to which he claims that he is entitled), to be sceptic and cautious at first. This is mainly because debtors are increasingly engaging in such acts, as alienation. The act of alienating is when debtors alienate any kind of property they have in their name or under their ownership, especially immovable property, in order to avoid possible claims through insolvency and bankruptcy procedures. Such practices jeopardise and sometimes nullify the effectiveness of a Court Order to restore the innocent party.

However, by exercising and using the right provisions conferred by the law, a plaintiff can be in a position to protect himself, by successfully issuing an interim injunction, which can prevent any attempt by debtors to alienate their estate.

The claimant may issue an interim order, before the Court - to which a claim for debt or compensation or any other remedy is pending - upon registration of a request. If said request is successful, the Court will grant the interim order, prohibiting in this way the defendant to alienate, encumber, or dispose, all or part of his estate, depending on the Court's judgment while taking into consideration what is necessary to secure the claim, in case the claimant is successful on his lawsuit.

The subject of the pre-trial or interim order is to safeguard assets while the trial is still pending. Moreover, in case of urgency, an interim order can be issued before the commencement of such trial proceedings.

In Cyprus law, Article 32 of the Courts of Law (L.14/1960), states in a general context the provisions conferring powers to the Court, in the exercise of their political jurisdiction to issue a prohibition order (interlocutory, permanent or mandatory), or appoint a recipient in all cases where the Court deems it fair or appropriate even when no compensation or other remedy is claimed or granted.

Furthermore, Article 32 of Law 14/60 covers not only interim orders but also permanent ones. In accordance with Article 32 (1) and for that to happen, the below conditions are strictly taken into consideration:

1. Existence of a grave issue to be heard on trial.
2. Possibility of success.



3. Unless an order is granted, it will be difficult or impossible to do complete justice at a later stage

In addition, Article 5 of Chapter 6 provides that any Court - in which a civil lawsuit for debt or compensation is still pending - may at any time after the initiation of the lawsuit, order that the defendant be prevented from expropriating immovable property which is registered in his name or for which he is legally entitled as an owner, for as long as it is sufficient to satisfy the plaintiff's claim together with the costs of the lawsuit. Such timeframe will be defined by the court. The order is not to be issued unless the Court appears to see that the plaintiff has a solid basis on the claim and that the sale or transfer of the property to a third party is likely to prevent the plaintiff from benefiting from any court decision that may be issued in his favour. (Article 5 (1) (2), Chapter 6). This Article is frequently applied in lawsuits on debt or damages and pertains to the issuance of orders regarding immovable property that is registered in the name of the defendant or property to which the defendant is entitled to be registered as an owner. The ultimate purpose is to seize the estate of the defendant in order to execute a future decision in favour of the plaintiff.

By its nature, an interim order is a precautionary / conservative measure and its validity lasts for as long as it is stated in the order itself, or in any other case, until the issuance of the Judgment of the Court in the lawsuit.

The interim order can and must be submitted to the Land Administration Office of the relevant District, where the property to which it refers is located. An exact copy of the interim order is submitted together with an accompanying note signed by the plaintiff or his authorised representative or his lawyer and on the same day the relevant rights are registered to the Department of Land Registry and Surveying.

The Certificate of Registration is issued right after the submission of the order. Such order can be annulled or amended only by the Court. It can, however, be withdrawn from the Land Registry with a written statement of the applicant, his representative or his lawyer.

The purpose of this legal briefing is to provide a general guideline on the subject and not to be considered, in any way, as legal advice. It is advisable to seek professional and legal advice on this subject before proceeding with any general information provided to you. For further clarifications and advice please contact us at legal@economideslegal.com.

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