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Press and Information

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Judgment of the Court of Justice in Case C-117/06

Möllendorf and Möllendorf-Niehuus

**A SALE OF IMMOVABLE PROPERTY MUST NOT BE COMPLETED IF
COMMUNITY LAW HAS MEANWHILE FROZEN THE ECONOMIC RESOURCES
OF THE BUYER**

Final registration of transfer of ownership in the Land Register, a pre-condition for acquiring ownership of immovable property in Germany, is prohibited if the buyer is on the list of persons associated with Usama bin Laden, the Al-Qaida network or the Taliban

Under German law, ownership of immovable property cannot be acquired directly as a result of a notarially recorded contract of sale between seller and buyer. If title to the property is effectively to pass to the buyer, it is also necessary for the two parties to conclude an agreement that ownership is to be transferred and for that transfer to be registered in the Land Register.

Gerda Möllendorf and Christiane Möllendorf-Niehuus are the owners of buildings and land in Berlin. In December 2000, they agreed by notarially authorised instrument to sell that property to a group of three buyers. The agreement also provided that the sale price had to be paid to the sellers before final registration of the transfer of ownership in the Land Register.

However, final registration of the transfer of ownership was refused by the competent authority, the Grundbuchamt, on the ground that one of the three buyers was on the list of persons subject to freezing of funds in accordance with Community law because of their association with Usama bin Laden, the Al-Qaida network or the Taliban.

The court before which that decision was challenged asked the Court of Justice whether the provisions of Regulation No 881/2002¹ do in fact prohibit registration of the transfer of ownership to a buyer who, after conclusion of the contract of sale, has been placed on the list set out in the Annex to that regulation.

The Court has replied that they do. The Court holds that immovable property consisting in built-upon land is an economic resource which, under that regulation, must not be made available to persons on the list. Final registration in the Land Register means that the property is made available to the buyer, since, under German law, it is only after final registration that the buyer

¹ Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban.

has the power not only to mortgage the immovable property, but also, and above all, to transfer the title to that property.

The Court holds that the prohibition on completing transactions applies independently of the economic relationship between the consideration given and the consideration received in return and without regard to the fact that a number of steps in the property transaction may already have been accomplished before that prohibition becomes applicable to one of the buyers.

Nor is the applicability of the prohibition affected by its implications under national law. On that point, the referring court was uncertain as to the compatibility of the sellers' obligation to repay the sale price if the transfer of ownership is not registered in the Land Register. The Court replies that it is for the national court to determine whether repayment of the sums received by the sellers would constitute a disproportionate infringement of their right to property.

Unofficial document for media use, not binding on the Court of Justice.

Languages available: CS ES DE EL EN FR IT HU NL PL SK

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-117/06>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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