

BÜLTEN/BULLETIN

24 July 2024

DOES THE LEASE AGREEMENT TERMINATE IF THE PROPERTY YOU RENT IS SOLD THROUGH ENFORCEMENT?

In recent economic conditions, disputes arising from rental relationships continue to increase day by day, and people are always concerned about eviction. In this context, we will examine the termination of the lease agreement in case the rented property is sold through enforcement.

What should we understand from the sale of properties through enforcement?

In the context of enforcement and bankruptcy law, there are different stages for the collection of debts initiated by the creditor, and the seizure of the debtor's assets is one of these stages.

In this context, if the payment order sent at the request of the creditor is not fulfilled, the movable or immovable properties (real estate) of the debtor will be seized. However, the seizure of assets does not mean that the creditor directly gains value against the debt. In this case, the creditor will request the sale of the debtor's seized assets, and the enforcement office will carry out the sale process and collect the debt within the scope of the relevant law.

Can the new owner who buys the property through enforcement request eviction?

If the property sold through enforcement is specifically a residence or workplace, it is likely that it is being used by someone else as a tenant or for another reason. For this reason, the Enforcement and Bankruptcy Law has organized the situation when a property that is used by the debtor or another person is sold through enforcement.

In Article 135/2 of the Enforcement and Bankruptcy Law, it is regulated that the new owner has the right to request eviction if the property sold is used by the debtor or another person without an officially documented contract made before the seizure.

In this context, the person using the property must vacate it at the request of the new owner unless they use it with an officially documented contract made before the date of the seizure. If the new owner exercises the right arising from the law, an eviction order will be sent to the person using the property, requiring them to vacate the property within 15 days.

Under what circumstances does the threat of eviction arise?

In the case of the sale of the property through enforcement, the new owner would request eviction if the conditions specified in the law are met and would give the person using the property 15 days to vacate it.

In this context, if the property is not vacated within the given time, the tenant will be subject to forced eviction through enforcement. However, when the enforcement officers go for eviction, there is a possibility of encountering a third person using the property.

If the person using the property does not present an official document justifying their use, eviction will be in question.

Although the law clearly states that eviction will be carried out in the absence of an official document, it has also allowed the person using the property to show that their use is justified under Article 276/2 of the law.

In this context, even if the person does not present an official document, the eviction will be postponed if he declares that he has been using the place since before the submission of the contract or documents subject to evacuation to the enforcement directorate and this is confirmed by the enforcement officer's on-site inspection.

If eviction is postponed, this will be notified to the enforcement court by the responsible officer within 3 days. After hearing the parties, the enforcement court may order eviction or allow one of the parties to file a lawsuit within seven days. However, it should be noted that only filing this lawsuit will not stop the eviction; a decision to stop the execution of the enforcement will be required.

What should be understood by the official document to be submitted to the enforcement office or court?

As a summary new owner, who purchases the property through execution, requests eviction, the existing tenant must submit an officially issued or approved lease agreement.

Legally, for a lease agreement to be valid, it does not need to be arranged at a notary or even in writing. For a valid lease agreement, it is sufficient that the parties agree on the rental of the property, the rent is paid, and the property is delivered to the tenant.

However, regarding the sale of the property through enforcement as regulated in the Enforcement and Bankruptcy Law, the law aims to prevent the debtor from acting in bad faith and trying to benefit from the property. In this context, even if the lease agreement is valid, if it is not officially arranged or approved before the seizure, it does not protect the tenant against eviction by the new owner.

In practice, this issue is strictly monitored, and the Supreme Court (Court of Appeal) has not considered documents such as tax records, social security records, subscription bills, and rent payment receipts as official documents proving tenancy. Nevertheless, in some cases, documents such as a notice sent through a notary before the date of seizure have been accepted as grounds for canceling the eviction.

In light of all these points, it is important to take the necessary precautions in advance to avoid the threat of eviction if the property you are renting is sold through enforcement. Otherwise, due to the rapid and definitive process, you may be evicted from the property you are renting within the lease period.