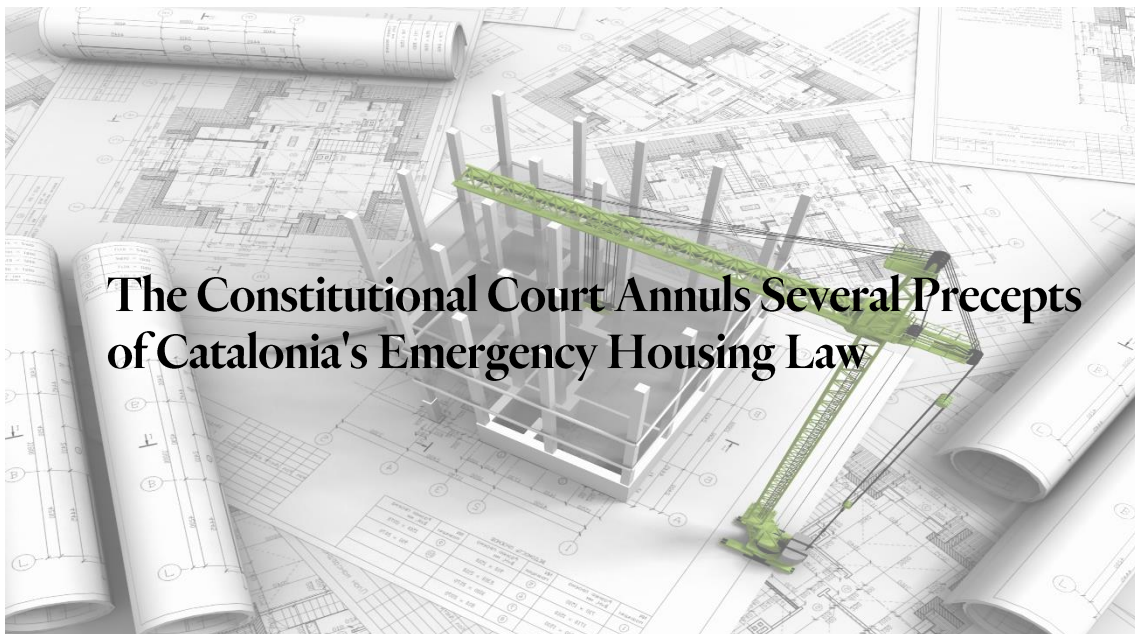


RocaJunyent Informs

Real Estate Law Department

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The Constitutional Court has declared unconstitutional and null and void several precepts of *Law 1/2022 of the Parliament of Catalonia, which amends Law 18/2007, Law 24/2015 and Law 4/2016, to address the housing emergency*. The ruling, dated 8 October 2024, declared the following articles null and void:

1. **Article 1.3:** this article established the obligation to offer social rent before filing a lawsuit. It has been declared unconstitutional for violating Article 149.1.6 of the

Spanish Constitution ("CE"), which, among other issues, grants the State exclusive competence in procedural legislation.

2. **Paragraphs 1 and 2 of Article 12 and Transitional Provision:** Paragraph 1 of Article 12 was intended to extend the obligation of landlords to offer social renting prior to initiating legal action, to any executive action derived from the claim of a mortgage debt and to certain eviction lawsuits.

Section 2, for its part, provided for the interruption of the judicial proceedings initiated, in which it is noted that the offer of social rent has not been made. Furthermore, the transitional provision extended this obligation to offer social renting to proceedings initiated before the entry into force of the Law. In relation to these articles, the Constitutional Court has also based its nullity on the interference of state competences in matters of procedural legislation (art. 149.1.6 CE).

3. **Article 11 and Transitional Provision:** these provided for the renewal of social rental agreements only once at the end of their term. This provision has been declared unconstitutional on the grounds that it infringes the State's competence in matters of the bases of contractual obligations, that is to say, in basic civil matters, and therefore collides with the competences reserved to the State in Article 149.1.8 EC. Likewise, the Court also considers that the aforementioned Transitional Provision encroaches on State competences on the basis of the same article of the *Magna Carta*.
4. **Article 7:** Under this article, in the event of the transfer of a property, the purchaser would be subrogated to the position of the seller in order to assume the "*consequences of the breach*" of the social function of the property. This, in the Court's view, would mean endowing the purchaser of a property with strict liability, obliging him to answer for other people's actions. Consequently, the Constitutional Court declared it null and void for contravening the principle of culpability derived from Article 25.1 EC.

It is important to rank the Judgment, for which Judge Maria Luisa Segoviano Astaburuaga was the rapporteur, with four dissenting opinions, in which it is stressed, among other issues, that the compulsory transfer of housing requires adequate compensation, by virtue of the provisions of art. 33 EC.

The unconstitutionality and nullity of the precepts will take effect from the publication of the judgment, except in the case of the nullity of Article 7, which, being of a punitive nature, will also affect sanctioning procedures that are in progress at the time of its publication. For any questions or clarification related to this ruling, please do not hesitate to contact our Real Estate and Construction Law Department.