

Sale of Mortgage Note Not Subject to Right of Redemption of Litigious Credit

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On July 23, 2019 in the case of DLJ Mortgage Capital, Inc. v. David Santiago Martínez, Diana Ortiz Borges y la Sociedad de Bienes Gananciales compuesta por ambos, 2019 TSPR 129, the Puerto Rico Supreme Court (the “PR Supreme Court”) issued an Opinion regarding the applicability of the right of redemption of a litigious credit (“*retracto de crédito litigioso*”) provisions of the Puerto Rico Civil Code (the “PR Civil Code”) to the sale of a mortgage note constituting a negotiable instrument.

The issue before the PR Supreme Court was whether the provisions of the PR Civil Code regarding the right of redemption of a litigious credit apply to the sale of a mortgage note constituting a negotiable instrument. In its analysis, the PR Supreme Court examined the relationship among the provisions of the PR Civil Code regarding the right of redemption of litigious credit, the Registry of Property Act of the Commonwealth of Puerto Rico and the Puerto Rico Commercial Transactions Act (the “PR CTA”) and concluded that the sale in good faith, for value received, and prior to maturity of a mortgage note constituting a negotiable instrument is not subject to the provisions of the PR Civil Code regarding the right of redemption of litigious credits. The PR Supreme Court further concluded that the PR CTA expressly negates the applicability of the provisions of the PR Civil Code regarding the pledge and transfer of credits, which transactions are governed by Chapter 9 of the PR CTA.

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