



PROTECT YOUR PRINCIPAL RESIDENCE FROM CREDITORS

By: Caridad Muñiz, Esq.

The new Puerto Rico Homestead Exemption Act (Act No. 195 of September 13, 2011, the “Act”) protects every Puerto Rico (“PR”) domiciled individual, or head of family, from a judgment against his or her principal residence under certain circumstances, regardless of the value of such residence. The previous PR homestead exemption act limited such protection to \$15,000 in value of the principal residence, now there is no limit. This new unlimited protection is similar to the homestead exemption enjoyed by residents of Florida and Texas.

The PR homestead protection applies to a real property consisting of a parcel of land and the structure located thereon, or a residential condominium unit, which the PR domiciled individual, or head of family, legally possesses or owns, and which is occupied exclusively by the individual or his or her family as principal residence (the “Principal Residence”). No person may claim more than one property as a protected homestead, even if the other property is located outside PR.

The homestead exemption protects the Principal Residence against judgments in malpractice and tort cases, as well as collection actions related to debts not secured by the Principal Residence.

Under the Act, the Principal Residence is protected against attachment, judgment or foreclosure in connection with the payment of any debts, except the following:

1. mortgages on the Principal Residence;
2. federal and state taxes;
3. amounts due to contractors for repairs to the Principal Residence;
4. cases subject to the Federal Bankruptcy Code, in which case the provisions of such Code rules; and
5. all cases related to loans, mortgages, sharecropping agreements and/or promissory notes constituted in favor of, insured or executed by, the PR Production Credit Association, Small Business Administration (now PR Farm Credit Association), PR Housing Finance Authority, Federal Farmers Home Administration, Federal Home Administration, United States Veterans Administration, and the Department of Economic Development and Commerce of Puerto Rico; and any successor entity of the foregoing, as well as any other state or federal agency or entity which guarantees mortgage backed loans which are secured and sold in the secondary market.

The right to the homestead exemption cannot be waived, and any pact to the contrary shall be declared null.

Any PR domiciled individual or head of family owning real property which currently constitutes his or her Principal Residence may establish the right to the homestead exemption through a Notarial Act (the “Homestead Exemption Notarial Act”) executed before a Notary Public admitted to practice in Puerto Rico, and filing the same at the corresponding section of the Registry of the Property (“Registry”). This filing triggers an annotation at the Registry’s records of the Principal Residence that notifies creditors of this homestead protection. Said annotation at the Registry will constitute prima facie evidence of such right. The recordation of the Homestead Exemption Notarial Act at the Registry is exempt from internal revenue stamps and recordation fees.

In the absence of the annotation at the Registry establishing the homestead protection, this right may still be claimed in court at a legal proceeding against a PR domiciled individual. However, the strict timeframes establish by the Act to claim such right in court may prevent a property owner, that has not previously filed the Homestead Exemption Notarial Act, from enjoying such right.

If you have any questions with respect to the above, or if we can help you with these documents and estate planning, please contact any of the following attorneys from our Estate Planning, Wills and Trusts Practice Group, led by Ricardo Muñiz (787) 281-1818; Vanessa I. Raffucci (787) 281-1801; Caridad Muñiz-Padilla, Esq. (787) 281-1817; Myrtelesa Díaz (787) 281-1808; or Emiluz Buonomo (787) 281-1804.

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