



Short-Term Rentals: Case-Law Overall Ruling (“Acórdão Uniformizador de Jurisprudência”)

On 22.03.2022, the Plenary of the Civil Sections of the Supreme Court of Justice (Proc. N.º 24471/16.4T8PRT.P1.S2-A – RUJ) issued a case-law overall ruling (“acórdão uniformizador de jurisprudência”) (the “Ruling”) in relation to two contrary decisions issued by the Supreme Court of Justice in the legal framework of short-term rentals (“alojamento local”).

I. The controversial matter:

Can a unit designated for “habitational” purposes in the incorporation title of the horizontal property (“título constitutivo da propriedade horizontal”) be used for short-term rentals?

II. The Ruling

The controversial matter is assessed in the Ruling in light of the framework of the short-term rentals, the horizontal property regime and the applicable administrative regulations, such as the General Regime of Urban Edifications.

In this context, it is stated in the ruling that the purposes foreseen in the license of use refer only to a “generic or broad category of use”, allowing therefore the use for compatible purposes.

“The short-term rentals, in the context of these licenses, is compatible with the generic purpose of “habitation” given to an urban building incorporated under the horizontal property regime and to its autonomous units (...)”.

Notwithstanding, and as per the Ruling, the above does not invalidate the need to combine these administrative provisions with the civil rules and those of the horizontal property regime, and therefore meaning that the “purpose” of a unit is (or may be, being this inclusion optional) limited by the horizontal property incorporation title, also registered at the correspondent land registry.

It is understood that “habitational” purposes, when identified in the incorporation title and land registry, corresponds to the “home life center, even if the license of use makes reference to the generic term of “habitation””.

As per article 1422.º, no. 2 paragraph c) of the Civil Code, “It is specifically forbidden to the owners: c) to give (to the unit) a different use than its purposed use”, being considered that the “purposed use” herein foreseen corresponds to the one established by the incorporation title which, being of “habitational purposes”, shall be interpreted as “home life center”, not allowing short-term rentals.

III. The Decision

“In the horizontal property regime, the identification in the incorporation title, that a specific unit is for habitational purposes, shall be interpreted as not allowing short term rentals.”

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