

## LEASE DISPUTE - JUDGEMENT BY THE LISBON COURT

On 12 September 2024, the Lisbon Court of Appeal handed down a ruling in case 10188/19.1T8LSB.L2-2, in the context of a lease dispute.

**The question at issue was whether the lack of use of a property leased for residential purposes is sufficient grounds for terminating the Lease Agreement.**

The owner of a property rented out for residential purposes since 1985 went to court to terminate the Lease Contract. Consequently, the property returned free and clear of all persons and goods, because the Tenant had stopped living in the property for more than a year.

The Tenant justified his absence by saying that he had spent less time on the property to look after his sick mother, who had died in the meantime.

Although the action had been dismissed by the court of first instance, the Lisbon Court of Appeal upheld the appeal and overturned the judgement.

The Lisbon Court of Appeal held that the Tenant had failed to fulfil the obligation to which he had bound himself - to use the property for the contracted purpose. The Tenant left the lease to move in with his mother in Lisbon, where he has also been working for at least four years.

Even after his mother's death, the Tenant did not re-establish his residence on the property, continuing to live in Lisbon and using the property only at weekends and sporadically.

The use of the leasehold for residential purposes is an obligation of the tenant, and it is there that the tenant must establish his residence, giving the house effective and permanent use. Non-use of the leased premises by the tenant is only permitted in the situations provided for in Article 1072, paragraph 2 of the Civil Code.

**In the opinion of the Lisbon Court of Appeal, both during the period in which he was caring for his mother and after her death, there was no evidence of any of the causes that remove the illegality of non-use.**

Accordingly, the Court cancelled the lease between the parties and ordered the Tenant to hand over the property free and clear of all persons and goods.