

A court in Santander rejects the suspension of the demolition of Las Llamas de Argoños

On pain of stopping the process , the City Council is obliged to provide " sufficient guarantees " to compensate those affected.

The Court of Administrative Litigation No. 1 of Santander dismissed the suspension of the demolition of nearly twenty houses threatened with demolition at urbanization La Llamas I Argoños, but urged the council to provide "sufficient guarantees" to compensate the " bona fide third parties " who may be affected .

In fact, he warned the Consistory that if this obligation were to be breached, " penalty payments " could be imposed, or proceedings for a crime of disobedience.

CITY COUNCIL REQUIRED TO REPORT EVERY 15 DAYS ABOUT THE WARRANTIES

The magistrate-judge of this court, Juan Varea, in an order of 18 April 2016, told the council that, if you have not made these guarantees to meet the liability that may be incurred by the demolition of these houses, then "Start the necessary formalities for it."

Thus, the court imposes the obligation of having to report on the procedures in place to get the guarantees, "every fifteen days".

The City Council should report the amounts calculated specifically for compensation, the persons concerned, the modalities for providing guarantees and budgetary procedures designed to enable these guarantees.

Otherwise, the judge in this decree, consulted by Europa Press, warned the Consistory that if they failed to comply, periodic penalty payments could be applied, and individuals prosecuted for the crime of disobedience.

THE CONSTITUTION OF WARRANTIES WITHOUT STOPPING THE PROCESS

However, the judge stated that the issue of establishing guarantees to compensate those affected by these demolitions are expected in the new paragraph 3 of Article 108.3 of the Law of Administrative Jurisdiction "not be used in fraudulent law or proceedings to prevent the effectiveness of a fundamental right "as effective judicial protection.

He said that any other course would raise the question of "unconstitutionality" of the clause 108.3.

The judge understands that "nothing prevents the resolution" of the issue of

guarantees of compensation, separately from the demolition process, without having to suspend the execution of the demolition process.

He agreed, that Article 108.3 states that "The demolition cannot be carried out until the security has been lodged, voluntarily or involuntarily, to satisfy all interests."

To invoke Clause 108.3 and suspend enforcement of demolition, an administrative appeal may be brought within five days.

VALUATION OF AMA

Speaking to Europa Press, AMA , the association that represents those affected by demolition in Cantabria, he believed that the decree is "a breakthrough " and an " attempt to reconcile rights" .

So, he valued " positively" the recognition in this decree of third parties of good faith, and the fact that they ask the Administration to provide resources to meet their responsibility.

However, he acknowledges that it would have seemed "more appropriate " to be more "clear" that you cannot tear down these houses without prior compensation.

Despite positively assessing the decree , AMA noted that , on the one hand , the PGOU initially approved Las Llamas I de Argoños, and in the decree they are referred to as " regularizables " .

And he points out that those affected live " a schizophrenia " because, on the one hand , there is the PGOU that tells them that their homes are regularizables, yet the decree cannot prevent the demolition.