

Irish Court Rules Against Developer

By [QUENTIN FOTTRELL](#) – 1 November 2010

DUBLIN—Ireland's high court on Monday ruled against property developer Patrick McKillen, effectively clearing the way for the country's state-loan agency to buy some €2.1 billion (\$2.92 billion) of his property loans from Irish banks.

If Mr. McKillen had won the case, observers say it would have opened the floodgates for other developers to launch similar challenges to the National Asset Management Agency at a critical point in Ireland's financial crisis.

NAMA is buying property loans from banks with a book value of €73.4 billion for an expected discount cost of just €30.5 billion. The purchases are central to the government's plans to rescue the nation's fragile banking system and restore value in the property market.

President of the High Court, Justice Nicholas Kearns, said in his concluding remarks that the act establishing NAMA "is a proportionate response to the very grave financial situation in which the state finds itself and which has particular relevance to financial institutions within the state."

Ireland has become a flashpoint of concern in the euro zone and looks to be among the bloc's worst-performing economies due to a collapse in the construction sector and near implosion of the banking system, which may require up to €50 billion in state recapitalization.

Lawyers for NAMA previously said that blocking the transfer of Mr. McKillen's loans would hurt NAMA's ability to buy billions of euros of good and bad property-development loans.

Mr. McKillen is a shareholder in Dublin's Clarence Hotel, along with U2 rock-band members Bono and The Edge, and in the Maybourne Hotel Group, which owns prestigious London-based hotels including the Berkeley, the Connaught and Claridge's.

The developer, who rarely appears in public, didn't attend Monday's ruling. His lawyers had argued that the steep discounts on loans being bought by NAMA are further dragging down the

cost of properties. They also said all his loans are "performing" with interest payments being met on his loans and no default notices having been issued by the banks.

But the state disputed that fact, alleging that Mr. McKillen's loans weren't performing because the Belfast-born developer was unable to repay some of his loans that have already expired, despite some forbearance on the part of the banks in delaying foreclosure on the expired loans.

Conor Houlihan, a partner with Dillon Eustace law firm in Dublin, said the ruling "is an important affirmation of the manner in which NAMA has conducted its business to date. The decision is also welcome in terms of reducing any uncertainty about the future of NAMA and its plans for dealing with the impaired bank assets of its participating Irish banks.

"The outcome is also important in terms of retaining, and continuing to develop, the current interest of specialist investors whose capital and expertise may play an important role in Ireland's recovery."

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