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Ireland's NAMA Loses McKillen Appeal on Loan Transfer

By Finbarr Flynn and Joe Brennan - Feb 3, 2011

Ireland's [National Asset Management Agency](#), or NAMA, lost a legal challenge by real-estate investor Paddy McKillen to stop the transfer of his debt to the agency, set up by the government to absorb risky loans.

The [Supreme Court](#) in Dublin accepted McKillen's appeal today to overturn a ruling by the High Court in November. The ruling casts doubts on the government's plan for revamping the banking system by removing lenders' property loans, following the collapse of the country's real-estate bubble in 2008.

Chief [Justice John Murray](#) said the decision by an interim NAMA board in December 2009, before the establishment of the agency, wasn't valid. The court will meet again on Feb. 9 to deliberate on other claims by McKillen in his case against NAMA.

"The court is satisfied that the December decision made by the interim team had no legal effect," Murray said. "NAMA has made no decision to acquire the appellants' loans."

Ireland agreed in November as part of an 85 billion-euro (\$117 billion) rescue package from the European Union and the [International Monetary Fund](#) to introduce a bill allowing NAMA to take on additional property loans from [Allied Irish Banks Plc](#) and Bank of Ireland Plc.

Banking Concerns

"The decision on itself does not necessarily seem to preclude NAMA from subsequently conducting a valid acquisition of these loans," said Conor Houlihan, a partner with Dillon Eustace, a law firm specializing in financial services. "It's too early to tell the real impact of today's judgment."

Ireland's Finance Minister [Brian Lenihan](#) declined to comment on the ruling. NAMA Chairman Frank Daly called the ruling a "disappointment" and said it "does not have implications for other acquisitions."

"This decision leaves a lot of uncertainty surrounding NAMA," said [Alan McQuaid](#), chief economist at Dublin-based Bloxham Stockbrokers. "It only adds to concerns about Ireland's ability to sort out the banking system."

NAMA was established in 2009 to buy more than 80 billion euros of property loans from five Irish lenders. The agency can take a developer's entire portfolio of loans from banks, rather than just the non-performing ones, and need not consult the borrower prior to the acquisition.

McKillen's lawyer Michael Cush had argued that the acquisition of the loans would cause "significant adverse effects" to his client's business and damage his reputation.

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