



## Reports of Cases

### JUDGMENT OF THE COURT (First Chamber)

10 July 2019\*

(Reference for a preliminary ruling — Area of freedom, security and justice — Regulation (EU) No 1215/2012 — Jurisdiction in civil and commercial matters — Exclusive jurisdiction — Article 24(1) and (5) — Disputes in proceedings which have as their object rights *in rem* in immovable property and in proceedings concerned with the enforcement of judgments — Judicially ordered auction of immovable property — Opposition proceedings regarding the proceeds from that auction)

In Case C-722/17,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bezirksgericht Villach (District Court, Villach, Austria), made by decision of 19 December 2017, received at the Court on 27 December 2017, in the proceedings

**Norbert Reitbauer,**

**Dolinschek GmbH,**

**B.T.S. Trendfloor Raumausstattungs-GmbH,**

**Elektrounternehmen K. Maschke GmbH,**

**Klaus Egger,**

**Architekt DI Klaus Egger Ziviltechniker GmbH**

v

**Enrico Casamassima,**

THE COURT (First Chamber),

composed of J.-C. Bonichot, President of the Chamber, C. Toader (Rapporteur), A. Rosas, L. Bay Larsen and M. Safjan, Judges,

Advocate General: E. Tanchev,

Registrar: D. Dittert, Head of Unit,

having regard to the written procedure and further to the hearing on 16 January 2019,

\* Language of the case: German.

after considering the observations submitted on behalf of:

- Mr Reitbauer, Dolinschek GmbH, B.T.S. Trendfloor Raumausstattungs-GmbH, Elektrounternehmen K. Maschke GmbH, Mr Egger and Architekt DI Klaus Egger Ziviltechniker GmbH, by G. Götz, Rechtsanwalt,
- Mr Casamassima, by H. Walder, Rechtsanwalt,
- the Portuguese Government, by L. Inez Fernandes, M. Figueiredo and P. Lacerda, acting as Agents,
- the Swiss Government, by M. Schöll, acting as Agent,
- the European Commission, by M. Heller and M. Wilderspin, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 3 April 2019,

gives the following

### Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 24(1) and (5) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2012 L 351, p. 1).
- 2 The request has been made in proceedings between Mr Norbert Reitbauer, Dolinschek GmbH, B.T.S. Trendfloor Raumausstattungs-GmbH, Elektrounternehmen K. Maschke GmbH, Mr Klaus Egger and Architekt DI Klaus Egger Ziviltechniker GmbH (together, 'Reitbauer and Others') and Mr Enrico Casamassima, who is resident in Italy, concerning opposition proceedings regarding the proceeds from a judicially ordered auction of immovable property located in Austria.

### Legal context

#### *EU law*

- 3 Recitals 15, 21 and 34 of Regulation No 1215/2012 read as follows:
  - '(15) The rules of jurisdiction should be highly predictable and founded on the principle that jurisdiction is generally based on the defendant's domicile. Jurisdiction should always be available on this ground save in a few well-defined situations in which the subject matter of the dispute or the autonomy of the parties warrants a different connecting factor. The domicile of a legal person must be defined autonomously so as to make the common rules more transparent and avoid conflicts of jurisdiction.
- ...
- (21) In the interests of the harmonious administration of justice it is necessary to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in different Member States. There should be a clear and effective mechanism for resolving cases of *lis pendens* and related actions, and for obviating problems flowing from national differences as to the determination of the time when a case is regarded as pending. For the purposes of this Regulation, that time should be defined autonomously.

...

(34) Continuity between the ... Convention [of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (OJ 1972 L 299, p. 32)], [Council] Regulation (EC) No 44/2001 [of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1)] and this Regulation should be ensured, and transitional provisions should be laid down to that end. The same need for continuity applies as regards the interpretation by the Court of Justice of the European Union of the 1968 Brussels Convention and of the Regulations replacing it.'

4 Chapter II of Regulation No 1215/2012, which is entitled 'Jurisdiction', contains inter alia a Section 1, 'General provisions', and a Section 2, 'Special jurisdiction'. Article 4(1), which is included in Section 1, provides:

'Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.'

5 Article 7 of that regulation reads as follows:

'A person domiciled in a Member State may be sued in another Member State:

- (1) (a) in matters relating to a contract, in the courts for the place of performance of the obligation in question;
- (b) for the purpose of this provision and unless otherwise agreed, the place of performance of the obligation in question shall be:
  - in the case of the sale of goods, the place in a Member State where, under the contract, the goods were delivered or should have been delivered,
  - in the case of the provision of services, the place in a Member State where, under the contract, the services were provided or should have been provided;

...'

6 Under Article 24(1) and (5) of the same regulation:

'The following courts of a Member State shall have exclusive jurisdiction, regardless of the domicile of the parties:

- (1) in proceedings which have as their object rights *in rem* in immovable property or tenancies of immovable property, the courts of the Member State in which the property is situated.

...

- (5) in proceedings concerned with the enforcement of judgments, the courts of the Member State in which the judgment has been or is to be enforced.'

## *Austrian law*

### *The EO*

- 7 It is apparent from Paragraphs 209 to 212 of the Exekutionsordnung (Austrian Enforcement Code, ‘the EO’) that the distribution of the proceeds from the compulsory auction of real property must be negotiated in an oral hearing. To that end, the creditors are requested to register their claims to the distribution proceeds and to provide documentary evidence. During the hearing, the accuracy and the ranking of the claims are examined.
- 8 In the context of the procedure for the distribution of the proceeds from the compulsory auction, the creditors and the debtor can oppose claims being taken into account pursuant to Paragraph 213 of the EO. The opposition can be based on the existence, the ranking or the amount of a registered claim.
- 9 Under Paragraph 231(1) of the EO, the court is to rule on the questions of law raised by the opposition by means of a distribution order. If the decision on the opposition depends on the determination of facts in dispute, the applicant is requested, by means of the distribution order, to bring opposition proceedings.
- 10 Pursuant to Paragraph 232 of the EO, the enforcement court has jurisdiction to rule on the opposition proceedings.

### *The AnfO*

- 11 Under Paragraph 1 of the Anfechtungsordnung (Austrian Avoidance Code, ‘the AnfO’), the purpose of an action for avoidance is to ensure that detrimental legal acts that affect the debtor’s assets are declared void only vis-à-vis the creditor bringing the action. The creditor has a right to avoidance proceedings if enforcement proceedings against the debtor’s assets did not or would not cover the creditor’s claims in full and if avoidance proceedings offer the prospect of the claims being met.
- 12 It follows from Paragraphs 2 and 3 of the AnfO that an action for avoidance can be brought on grounds of fraudulent intention or the dissipation of assets, including any disposals made free of charge.
- 13 Pursuant to Paragraph 6 of the AnfO, contesting an act is not precluded by reason of the fact that a judicially enforceable instrument has been obtained for the act at issue or that the act was brought about by way of enforcement of a judgment.
- 14 As is apparent from Paragraph 10 of the AnfO, an action for avoidance can be brought in the context of the procedure for the distribution of the proceeds from a compulsory auction.

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

- 15 Mr Casamassima and Ms C., who are resident in Rome (Italy), lived together, at least until the spring of 2014. In the course of 2010, they had purchased a house in Villach (Austria). Ms C was registered in the land register as being the sole owner.
- 16 Orders for work to renovate the property were subsequently placed with Reitbauer and Others. Since the payments for that work were not honoured in full, Reitbauer and Others brought an action for damages against Ms C. A series of judgments, the first of which is not final and was given at the beginning of 2014, granted that application.

- 17 On 7 May 2014, before a court in Rome, Ms C. acknowledged Mr Casamassima's claim against her with respect to a loan in the amount of EUR 349 772.95, the conditions of repayment of which over a five-year term had been agreed under a court settlement. In addition, Ms C. undertook to have a mortgage registered on the real property in Villach in order to secure that claim.
- 18 By a notarial act dated 13 June 2014, drawn up in Vienna (Austria), Ms C. once again acknowledged that debt. On 18 June 2014, a pledge on the immovable property concerned was entered in the land register in favour of Mr Casamassima.
- 19 The first judgment given in favour of Reitbauer and Others in early 2014 further to the action for damages became enforceable only after the registration of the pledge in favour of Mr Casamassima, such that pledges on Ms C.'s real property held by Reitbauer and Others and obtained by way of the enforcement of that judgment ranked behind Mr Casamassima's pledge.
- 20 On 3 September 2015, the court in Rome confirmed that the court settlement concluded between Ms C. and Mr Casamassima constituted a European Enforcement Order, pursuant to the provisions of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (OJ 2004 L 143, p. 15).
- 21 In February 2016, Mr Casamassima applied to the Bezirksgericht Villach (District Court, Villach, Austria), the referring court, for an order requiring the compulsory auction of the immovable property concerned. It is clear from the ranking of creditors contained in the land register that the price of EUR 280 000, at which the property was awarded in the autumn of 2016, would go almost entirely to Mr Casamassima on the basis of the pledge entered in that register in his favour.
- 22 With a view to preventing such a distribution of the proceeds from the judicially ordered auction, Reitbauer and Others took a number of legal steps.
- 23 Thus, first, in June 2016, Reitbauer and Others brought before the Landesgericht Klagenfurt (Regional Court, Klagenfurt, Austria) an action for avoidance against Mr Casamassima and Ms C. By an order which became final in July 2017, that court dismissed that action, citing its lack of international jurisdiction in view of Mr Casamassima's and Ms C.'s domicile outside Austria.
- 24 Secondly, at the hearing organised on 10 May 2017 before the referring court, pursuant to Paragraphs 209 to 212 of the EO, for the purposes of the distribution of the proceeds from the judicially ordered auction between various creditors, Reitbauer and Others filed an opposition, under Paragraph 213 of the EO, regarding the distribution to Mr Casamassima.
- 25 After filing that opposition, Reitbauer and Others brought opposition proceedings before the referring court, under Paragraph 232 of the EO, within the context of which they raised two grounds of opposition. The first ground seeks a declaration that the decision regarding the distribution of the proceeds from the judicially ordered auction to Mr Casamassima had been invalid because the latter's claim no longer existed due to the damages for which he was liable in relation to Ms C. since he placed the orders for renovation work with Reitbauer and Others without Ms C.'s consent. The second ground, which the referring court treats in the same way as an action for avoidance, concerns the acknowledgement of the debt of 13 June 2014 which, according to Reitbauer and Others, was drawn up by notarial act with the sole aim of pre-empting enforcement proceedings brought by them in relation to the immovable property concerned.
- 26 With a view to demonstrating that the Bezirksgericht Villach (District Court, Villach) has international jurisdiction to hear and determine such an action, Reitbauer and Others have relied on Article 24(5) of Regulation No 1215/2012. By contrast, Mr Casamassima has submitted a plea of lack of international jurisdiction on the part of that court, arguing that the action in the main proceedings is, in essence, of

a nature similar to that of an action for avoidance, which the Court has already held, by the judgment of 26 March 1992, *Reichert and Kockler* (C-261/90, EU:C:1992:149), does not fall within the scope of that rule of exclusive jurisdiction.

- 27 The referring court clarifies that, under Austrian law, at the hearing organised to discuss the distribution of the proceeds from a judicially ordered auction, the existence and order of priority of the claims may be examined where an opposition is filed pursuant to Paragraph 213 of the EO. If the decision on the opposition turns on the determination of facts in dispute, the parties are requested, within a period of 1 month, to bring a separate action, that is, opposition proceedings regarding the distribution of proceeds.
- 28 Those proceedings suspend the enforcement of the decision ordering the distribution to the extent that that distribution is contested.
- 29 According to the referring court, the opposition proceedings allow, inter alia, for a review of the validity of a pledge, as Reitbauer and Others are seeking to obtain from that court by their second ground of opposition. The referring court takes the view that that possibility confers on the opposition proceedings the nature of an action for avoidance.
- 30 With regard to the international jurisdiction to hear and determine opposition proceedings, the referring court asks whether the rules of jurisdiction should be examined having regard to such proceedings considered in general and abstract terms or in the light of each ground of opposition raised in a specific case.
- 31 According to that court, the features of such proceedings, taken as a whole, point to a strong connection with the courts of the place of the enforcement or the immovable pledged object.
- 32 Thus, as regards the rules of exclusive jurisdiction in favour of the courts of the Member State in which a judgment has been or is to be enforced, as laid down in Article 24(5) of Regulation No 1215/2012, the referring court reasons that, under the EO, the opposition proceedings fall within the mandatory jurisdiction of the enforcement court. Although it is true that the primary purpose of the proceedings under Paragraph 232 of the EO is not to avoid enforcement, since the debtor has already lost ownership of the immovable property in the course of the judicially ordered auction, the property concerned would be replaced, at that stage, by the proceeds from the auction, such that the distribution of those proceeds by the court also lies within the responsibility of the authority responsible for carrying out the enforcement.
- 33 With regard to the rules of exclusive jurisdiction in favour of the courts of the Member State for the place in which the property is located, as laid down in Article 24(1) of Regulation No 1215/2012, the referring court submits that the opposition proceedings also fall within the scope of that provision, with such proceedings constituting a step in the realisation of a pledge, which is finalised by the distribution of the proceeds from the sale of the pledged object.
- 34 In those circumstances, the Bezirksgericht Villach (District Court, Villach) has decided to stay the proceedings and refer the following questions to the Court for a preliminary ruling:

‘(1) Must Article 24(5) of Regulation No 1215/2012 be interpreted as meaning that the opposition proceedings provided for in Paragraph 232 of the [EO] in the event of a dispute regarding the distribution of proceeds from a judicially ordered auction come within the scope of application of that provision,

even if the action brought by one pledgee against the other pledgee

- (a) is based on the objection that the latter’s claim arising from a loan agreement, which was secured by a pledge, no longer existed due to a counter-claim of the debtor for damages, and



(b) is furthermore based on the objection — similar to an action for avoidance — that the creation of the pledge for that claim under a loan agreement was invalid due to the preferential treatment of creditors?

(2) Must Article 24(1) of Regulation No 1215/2012 be interpreted as meaning that the opposition proceedings provided for in Paragraph 232 of the [EO] in the event of a dispute regarding the distribution of proceeds from a judicially ordered auction come within the scope of application of that provision,

even if the action brought by one pledgee against the other pledgee

(a) is based on the objection that the latter's claim arising from a loan agreement, which was secured by a pledge, no longer existed due to a counter-claim of the debtor for damages and

(b) is furthermore based on the action — similar to an action for avoidance — that the creation of the pledge for that claim under a loan agreement was invalid due to the preferential treatment of creditors?'

### **The questions referred for a preliminary ruling**

35 By its two questions, which should be examined together, the referring court is essentially asking whether Article 24(1) and (5) of Regulation No 1215/2012 must be interpreted as meaning that the opposition proceedings brought by a creditor regarding the proceeds from a judicially ordered auction of an immovable property and seeking, first, a declaration that a competing claim no longer exists due to a counter-claim, and, secondly, the invalidity of the pledge guaranteeing the enforcement of the claim, fall within the exclusive jurisdiction of the courts of the Member State where the property is located or the courts of the place of enforcement.

36 As a preliminary point, it should be recalled that it is settled case-law that, in so far as Regulation No 1215/2012 repeals and replaces Regulation No 44/2001 which, in turn, replaces the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by subsequent accession conventions for the new Member States, the Court's interpretation of the provisions of the latter legal instruments also applies to Regulation No 1215/2012 whenever those provisions may be regarded as 'equivalent' (see, to that effect, judgments of 31 May 2018, *Nothartová*, C-306/17, EU:C:2018:360, paragraph 18; of 15 November 2018, *Kuhn*, C-308/17, EU:C:2018:911, paragraph 31; and of 28 February 2019, *Gradbeništvo Korana*, C-579/17, EU:C:2019:162, paragraph 45 and the case-law cited).

37 The system of the conferral of common jurisdiction laid down in Chapter II of Regulation No 1215/2012 is based on the general rule, set out in Article 4(1) of that regulation, that persons domiciled in a Member State are to be sued in the courts of that State, whatever the nationality of the parties.

38 It is only by way of derogation from that general rule that the courts of the defendant's domicile have jurisdiction that Article 24 of Regulation No 1215/2012 provides for rules of exclusive jurisdiction, in particular in proceedings which have as their object rights *in rem* in immovable property and proceedings concerned with the enforcement of judgments. Those specific rules of jurisdiction must, therefore, be interpreted strictly.

39 It is apparent from the request for a preliminary ruling that, according to the relevant rules of the EO, following a judicially ordered auction of an immovable property, the distribution of the proceeds of the enforcement is decided at a hearing, which is organised before the enforcement court. At that hearing, if a creditor's right of participation is disputed, the court will be moved to conduct checks into, inter

alia, the existence or the order of priority of the claims. In the event that the decision on the opposition depends on the determination of facts in dispute, the parties are requested to bring opposition proceedings.

- 40 In the present case, in support of the opposition proceedings brought in the main proceedings, Reitbauer and Others have submitted, first, that Mr Casamassima's claim no longer exists due to a counter-claim and, secondly, that the pledge guaranteeing the enforcement of Mr Casamassima's claim is invalid. In the referring court's view, the latter objection is in the nature of an action for avoidance.
- 41 Although it is undeniable that, viewed as a whole, the opposition proceedings are linked to the enforcement proceedings relating to the compulsory auction of immovable property, the fact remains, as is clear from the information in the documents before the Court, that the grounds of opposition raised in the context of such proceedings may be very diverse in content and thus be of a different legal nature, such that their proximity to the enforcement proceedings or to the rights *in rem* in immovable property may vary significantly.
- 42 Accordingly, an overall analysis of the opposition proceedings made for the purposes of determining the rules of international jurisdiction applicable to those proceedings would — as the Advocate General observed in essence in points 35, 38 and 48 of his Opinion — run counter to the strict interpretation, required by their nature as derogations, of the rules of exclusive jurisdiction provided for in Article 24(1) and (5) of Regulation No 1215/2012.
- 43 In the light of those considerations, it is necessary to examine whether the court having jurisdiction to hear and determine, respectively, each of the grounds of opposition raised by Reitbauer and Others may be determined on the basis of, first, Article 24(1) of Regulation No 1215/2012 and, secondly, Article 24(5) of that regulation.

#### **Article 24(1) of Regulation No 1215/2012**

- 44 With regard to the jurisdiction of the courts of the State in which the property is situated, as provided for in Article 24(1) of Regulation No 1215/2012, the Court has repeatedly held that that exclusive jurisdiction does not encompass all actions concerning rights *in rem* in immovable property, but only those which both come within the scope of Regulation No 1215/2012 and are actions which seek, first, to determine the extent, content, ownership or possession of immovable property or the existence of other rights *in rem* therein and, secondly, to provide the holders of those rights with protection for the powers which attach to their interest (judgments of 3 April 2014, *Weber*, C-438/12, EU:C:2014:212, paragraph 42; of 17 December 2015, *Komu and Others*, C-605/14, EU:C:2015:833, paragraph 26; and of 16 November 2016, *Schmidt*, C-417/15, EU:C:2016:881, paragraph 30).
- 45 Accordingly, it is not sufficient that the action concerns a right *in rem* in immovable property or that the action has a link with immovable property in order to attract the jurisdiction of the court of the Member State in which the property is situated. On the contrary, the action must be based on a right *in rem* and not on a right *in personam* (judgment of 16 November 2016, *Schmidt*, C-417/15, EU:C:2016:881, paragraph 34).
- 46 With regard, in the first place, to the ground of opposition seeking a declaration that Mr Casamassima's claim no longer exists due to a counter-claim, it must be observed that, by that application, Reitbauer and Others seek, in essence, to dispute the existence of the claim raised in opposition to them in the context of the distribution of the price of the judicially ordered auction.



- 47 Although it is true that the existence of the claim served as the basis of the creation of the pledge and for the subsequent enforcement, the claim for set-off is not based on a right *in rem*. The issue of whether Mr Casamassima's claim vis-à-vis his debtor no longer exists due to a counter-claim is not, therefore, linked to the grounds on which exclusive jurisdiction may be conferred on the courts for the place where the property is situated, namely the need to conduct checks, inquiries and expert assessments in that place (see, to that effect, judgment of 17 December 2015, *Komu and Others*, C-605/14, EU:C:2015:833, paragraph 31 and the case-law cited).
- 48 With regard, in the second place, to the ground by which Reitbauer and Others dispute the merits of the notarial act acknowledging the debt drawn up between Mr Casamassima and Ms C. on 13 June 2014, which served as the basis for the enforcement, and seek a declaration that that act cannot be effective against them, it must be observed that the examination of such an argument does not involve the assessment of facts or the application of rules and practices of the *locus rei sitae* in such a way as to justify conferring jurisdiction on a court of the Member State in which the property is situated (judgment of 10 January 1990, *Reichert and Kockler*, C-115/88, EU:C:1990:3, paragraph 12).
- 49 Such a ground of opposition, which the referring court equates with an action for avoidance, is based on the creditor's personal claim against the debtor and seeks to protect whatever security he may have over the debtor's estate (judgment of 4 October 2018, *Feniks*, C-337/17, EU:C:2018:805, paragraph 40).
- 50 Consequently, as the Advocate General likewise observed in point 58 of his Opinion, the examination of the question whether the conditions of such an action are met does not presuppose an assessment strictly linked to the place where the immovable property is situated, which would in and of itself justify the exclusive jurisdiction of the courts of the Member State in which that property is situated.

#### **Article 24(5) of Regulation No 1215/2012**

- 51 As a preliminary point, it should be observed that, under that provision, in proceedings concerned with the enforcement of judgments, the courts of the Member State in which the judgment has been or is to be enforced are to have exclusive jurisdiction, regardless of the domicile of the parties.
- 52 In accordance with the case-law of the Court, actions intended to obtain a decision in proceedings relating to recourse to force, constraint or distraint on movable or immovable property in order to ensure the effective implementation of judgments and authentic instruments come within the scope of Article 24(5) of Regulation No 1215/2012 (see, to that effect, judgment of 26 March 1992, *Reichert and Kockler*, C-261/90, EU:C:1992:149, paragraph 28).
- 53 With regard, in the first place, to the ground of opposition raised by Reitbauer and Others seeking a declaration that Mr Casamassima's claim no longer exists due to a counter-claim, it must be observed that the examination of the merits of such an application departs from questions relating to the implementation of the enforcement as such.
- 54 In addition, as is apparent from the case-law of the Court, the specificity of the connection required by Article 16(5) of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by subsequent accession conventions for the new Member States, the provisions of which were reproduced in Article 24(5) of Regulation No 1215/2012, means that a party cannot make use of the jurisdiction conferred by that provision on the courts of the place of enforcement in order to bring before those courts, by way of an exception, a dispute which falls within the jurisdiction of the courts of another Member State (see, to that effect, judgment of 4 July 1985, *AS-Autoteile Service*, 220/84, EU:C:1985:302, paragraph 17).

- 55 With regard, in the second place, to the ground of opposition equated by the referring court with an action for avoidance, it should be observed that, by that ground, Reitbauer and Others do not contest the acts of the authorities responsible for enforcement in themselves, such that proceedings of that kind do not present the degree of proximity required with such enforcement to justify the application of the rule of exclusive jurisdiction provided for in Article 24(5) of Regulation No 1215/2012.
- 56 That said, and in order to provide the referring court with all the useful guidance to resolve the dispute before it, it is necessary to examine, as the Advocate General did, whether Article 7(1)(a) of Regulation No 1215/2012 provides a legal basis for the international jurisdiction of that court in relation to actions for avoidance.
- 57 Under that provision, in matters relating to a contract, a person domiciled in a Member State may be sued in another Member State in the courts for the place of performance of the obligation in question.
- 58 In that regard, the Court has held that, once it is brought on the basis of the creditor's rights created upon the conclusion of a contract, an action for avoidance falls within 'matters relating to a contract' within the meaning of Article 7(1)(a) of Regulation No 1215/2012 (judgment of 4 October 2018, *Feniks*, C-337/17, EU:C:2018:805, paragraph 44).
- 59 In the present case, as Reitbauer and Others and the European Commission argued in essence at the hearing, since the second ground of opposition raised, equated by the referring court with an action for avoidance, sought a declaration that the pledge created in favour of Mr Casamassima by Ms C. — the common debtor to whom each of those creditors was contractually bound — was invalid in respect of Reitbauer and Others, the courts for the defendant's domicile could be supplemented by the courts on which jurisdiction is conferred under Article 7(1)(a) of Regulation No 1215/2012.
- 60 In the light of the contractual origin of the relationships between the creditors and Ms C., such courts satisfy both the requirement of legal certainty and foreseeability and the objective of the proper administration of justice.
- 61 It would, therefore, be open to the holders of enforceable claims arising from a contract to bring an action for avoidance before the courts for the 'place of performance of the obligation in question', as authorised under Article 7(1)(a) of Regulation No 1215/2012. In the present case, by the second ground, Reitbauer and Others seek to preserve their interests in the enforcement of the obligations arising from the contracts for renovation work concluded with Ms C. It follows that the 'place of performance of the obligation in question' would be, in accordance with Article 7(1)(a) of that regulation, the place where, under those contracts, that renovation work was provided, namely Austria.
- 62 In the light of those considerations, the answer to the questions referred is that Article 24(1) and (5) of Regulation No 1215/2012 must be interpreted as meaning that the opposition proceedings brought by a creditor regarding the proceeds from a judicially ordered auction of an immovable property and seeking, first, a declaration that a competing claim no longer exists due to a counter-claim, and, secondly, the invalidity of the pledge guaranteeing the enforcement of the claim do not fall within the exclusive jurisdiction of the courts of the Member State where the property is located or the courts of the place of enforcement.

### Costs

- 63 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

**Article 24(1) and (5) of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that the opposition proceedings brought by a creditor regarding the proceeds from a judicially ordered auction of an immovable property and seeking, first, a declaration that a competing claim no longer exists due to a counter-claim, and, secondly, the invalidity of the pledge guaranteeing the enforcement of the claim do not fall within the exclusive jurisdiction of the courts of the Member State where the property is located or the courts of the place of enforcement.**

[Signatures]