LRX/186/2006

LANDS TRIBUNAL ACT 1949

LANDLORD AND TENANT – service charges – holiday bungalows – whether "dwellings" for purposes of application of Landlord and Tenant Act 1985 ss 18 to 30 – held not to be dwellings for this purpose – 1985 Act s 38

IN THE MATTER OF AN APPEAL FROM THE LEASEHOLD VALUATION TRIBUNAL OF THE SOUTHERN RENT ASSESSMENT PANEL

BETWEEN

(1) MR B J KING
(2) MRS G KING
(3) MR B VALLELY
(4) MRS B VALLELY
(5) MRS S M BUCKLEY **Appellants**

and

UDLAW LIMITED **Respondent**

Re: 8, 9 and 10 Carnmoggas Holiday Park,
Little Polgooth, St Austell,
Cornwall PL26 7DD

Before: The President

Sitting at Procession House, 110 New Bridge Street, London EC4V 6JL
On 17 March 2008

Douglas Readings instructed by Hodgkiss Hughes & Beale, solicitors of Birmingham, for the appellants
John Summers instructed by John Hodge Solicitors of Bristol for the respondent

The following cases are referred to in this decision:

Uratemp Ventures Ltd v Collins [2002] 1 AC 301
Caradon DC v Paton [2000] 3 EGLR 57
Curl v Angelo [1948] 2 All ER 189
Gravesham BC v Secretary of State for the Environment (1984) 47 P & CR 142
Moore v Secretary of State for the Environment (1999) 77 P & CR 114
Bloomfield v Secretary of State for the Environment, Transport and the Regions [1999] EWHC Admin 217
Grendon v First Secretary of State [2006] EWHC 1711 (Admin)
Skinner v Geary [1931] 2 KB 546
Haskins v Lewis [1931] 2 KB 1
Ruddy v Oakfern Properties Ltd [2007] Ch 335

The following further case was referred to in argument:

Finchbourne v Rodrigues [1976] 3 All ER 581

DECISION

1. This is an appeal against a decision of the Southern Leasehold Valuation Tribunal on an application by the appellants under section 27A of the Landlord and Tenant Act 1985. The appellants are leasehold owners and occupiers of three bungalows, numbers 8, 9 and 10, at Carnmoggas Holiday Park, Little Polgooth, St Austell, Cornwall. The respondent is the freehold owner of the bungalows and of the holiday park and caravan site of which the bungalows form part. The application, which was made on 18 February 2006, sought a determination of the appellants' liability to pay service charges to the respondent in respect of the bungalows. In its decision of 20 October 2006 the LVT determined that it had no jurisdiction to deal with the application because the bungalows did not constitute "dwellings" for the purposes of section 18 of the Act. The LVT granted leave to appeal on 6 December 2006.

2. There is no dispute as to the facts. The holiday park was developed and operated pursuant to planning permissions granted by Restormel Borough Council in 1979, 1980, 1982, 1985 and 1999. The most recent of those permissions, dated 5 May 1999, was for "Continued use of static letting caravans, chalets and covered swimming pool and children's play area without compliance with [certain conditions in the earlier planning permissions] to allow all year round use of park as holiday accommodation". Three conditions were attached to the permission, of which condition 3 was in these terms:

> "3. The development hereby permitted shall be used for holiday purposes and shall not be used for permanent residential accommodation.
>
> Reasons: The proposed development and site are not suitable for permanent residential occupation."

3. Each bungalow comprises a lounge, two bedrooms, kitchen and bathroom. They are of cavity wall construction. There is agreement that they possess all the amenities necessary for residential accommodation.

4. Each of the three bungalows to which the applications to the LVT related are held by the appellants under 99-year leases in the same terms. A copy of the lease of number 10 was produced. That lease was made, and the term commenced, on 8 November 2001, and the recitals were as follows:

> "(1) The Landlord is the owner with full title guarantee of a holiday estate ('the holiday estate') known as Carnmoggas Holiday Park Little Polgooth St Austell Cornwall
>
> (2) the Landlord has laid out and provided the holiday estate with roads and drainage and with the means of obtaining water and electricity to serve the sites formed for bungalow buildings designed as holiday dwellings and has been granted planning permission to keep holiday dwellings on those sites

(3) the Tenants are to become the owners of one holiday dwelling ("the holiday bungalow") and have agreed to take a lease of a site on the holiday estate for the holiday bungalow and the Landlord has agreed to grant such a lease at the price of Seventeen Thousand Five Hundred Pounds) £17,500)"`

5. The tenants' covenants include a covenant to pay service charges. It is in these terms:

"(iii) To pay the Landlord on the first day of January in each year during the term hereby granted 1/58th (or the appropriate fraction if the number of units on this site changes) of all money (as certified by the Landlord's accountants for the time being subject to Clause 4(iv)) which may from time to time during the term be expended by the Landlord in renewing repairing and maintaining the service media in or under the holiday estate, the drives parking areas footpaths gardens and other areas forming part of the holiday estate and used for the benefit of the occupiers of the holiday bungalows, the external painting of the holiday bungalows in every third year of the term and for carrying out any other works for the preservation or improvement of the existing general amenities of the holiday estate (but excluding the replacement of any amenity building or structure) and for providing the services covenanted to be provided by the Landlord including the insurance of the holiday estate and the holiday bungalows and also all fees incurred by the Landlord in connection with such expenditure."

6. Of central importance to the issue in the present case is the following tenants' covenant:

"(x) Not to use the bungalow site nor the holiday bungalow for any purpose other than that of a holiday bungalow."

7. Also to be noted is the restricted covenant against underletting:

"(xiii) (a) Not to assign underlet or part with possession of the bungalow site and or the holiday bungalow nor any part thereof without the prior written consent of the Landlord which consent shall not be unreasonably withheld

(b) On any such assignment underletting or parting with possession for consideration to pay to the Landlord the sum of 2% of the consideration

(c) Such consent shall be unnecessary where the Tenant underlets the whole or part for no more than a month at a time or in respect of a disposition under a mortgage or legal charges executed by the Tenant."

8. The LVT's decision, under the heading "Evidence", included the following:

"... At the hearing the Applicants confirmed that the Premises constituted holiday bungalows but they understood that several of the bungalows on the holiday park were lived in by their owners for most of the year but could only speak with certainty in respect of immediately neighbouring properties ... The Respondent ... confirmed that

> none of the covenants in the leases had been varied. Mrs Burley of Chalet number 9 had no other home but did go away from her chalet for two or three months each year whereas Mr and Mrs Vallely and Mr and Mrs King lived elsewhere and used their chalets for holidays only."

9. The LVT expressed its decision as follows:

> "Clause 2 (x) of the model Lease which had been produced to us provided that the premises should not be used 'for any purpose other than that of a holiday bungalow' and the Planning Consent which was produced to us dated 5 May 1999 issued by the Borough of Restormel provided that the development permitted should be 'used for holiday purposes and shall not be used for permanent residential accommodation'. In those circumstances we found as a matter of law that the premises did not constitute dwellings for the purposes of Section 18 Landlord and Tenant Act 1985 and that we accordingly did not have jurisdiction to deal with the application."

10. Section 27A(1) of the Landlord and Tenant Act 1985 provides that an application may be made to an LVT for a determination whether a service charge is payable and, if so, the amount which is payable. "Service charge" is defined in section 18(1) to mean "an amount payable by a tenant of a dwelling as part of or in addition to the rent" for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, where the amount varies according to the relevant costs (as defined in subsection (2)). "Dwelling" is defined in section 38 to mean:

> "a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it."

11. For the appellants Mr Douglas Readings submitted that the expression "dwelling" rather than "dwelling-house" was used so as to avoid any reference to the form of the lease. He contrasted the definition of "dwelling" in section 38 with the definitions in section 16(b) of the Act:

> "'Lease of a dwelling-house' means a lease by which a building or part of a building is let wholly or mainly as a private residence, and 'dwelling-house' means that building or part of a building."

Relying principally on cases under the planning legislation (to which I will refer), Mr Readings said that, where the courts have considered the terms "dwelling" or "dwelling-house", they have attached weight to (i) evidence of actual occupation and (ii) evidence that the building in question has the ability to afford to those who use it the facilities required for day-to-day private domestic existence. The bungalow in the present case, he said, presented both kinds of evidence, and it therefore constituted a dwelling. He also relied on the amendments made to the Landlord and Tenant Act 1985 by the Landlord and Tenant Act 1987, which extended the benefit of sections 16 to 30 to persons other than tenants of flats as showing that "dwelling" should not be construed narrowly so as to exclude holiday accommodation.

12. For the respondent Mr John Summers relied on *Uratemp Ventures Ltd v Collins* [2002] 1 AC 301 for the proposition that "dwelling" implied the place where one lives and makes one's home – notions of centrality and settled occupancy that, he said, were antithetical to the concept of holiday accommodation. Support was also to be derived from *Caradon DC v Paton* [2000] 3 EGLR 57, in which a covenant against using a house other than as "a private dwelling-house" was held to exclude use as holiday accommodation. The planning cases, Mr Summers submitted, provided no assistance because the policy underlying the provisions with which they were concerned was regulating the use of land. By contrast the Housing Act 1988 (considered in *Uratemp*) and the Rent Restriction Acts (considered in *Curl v Angelo* [1948] 2 All ER 189), had as their purpose the protection of individuals in their home. The policy behind sections 18 to 30 was to prevent unreasonable demands being enforced against tenants, and, as a set of restrictions on the contractual autonomy of the parties, they ought to be given a narrow constriction. If there was no imperative in the Act for saying that "dwelling" means more than the tenant's principal, settled and central home, then no wider a construction should be adopted. The policy of the Act was to protect the interests of tenants in their homes.

13. The point in issue is a narrow one. There is agreement that the bungalows possess all the amenities necessary for residential accommodation. They provide accommodation for day-to-day living, and they are occupied for this purpose. Although it appears that some of the bungalows in the holiday park, including one of those subject to the present appeal, are occupied as permanent accommodation, it is not suggested that this should have any bearing on the outcome; and it is not suggested that there has been any acquiescence on the part of the landlord in the breach of any covenant. I approach the matter, therefore, on the basis that these are holiday bungalows, designed for this purpose and limited in use for this purpose both under the terms of the planning permission and by a covenant to this effect that appears in every lease. The only question is whether, as Mr Readings contends, to constitute a dwelling for the purposes of section 38 it is sufficient if the premises afford to their occupier the facilities required for day-to-day private domestic existence or whether the definition ought to be construed as containing the additional requirement contended for by Mr Summers, that the premises should be the place where he lives and makes his home. If the additional requirement is to be implied, these holiday bungalows are not dwellings for this purpose, and they do not have the protection of sections 18 to 30. If no such implication is to be made, they are dwellings and they are protected.

14. The meaning of "dwelling-house" in the planning legislation has been considered in a number of cases. I was referred to four of these. In the first of them, *Gravesham BC v Secretary of State for the Environment* (1984) 47 P & CR 142, the question was whether a holiday chalet was a dwelling-house for the purposes of the Town and Country Planning General Development Order 1977, so that an extension to it constituted permitted development. McCullough J held that it was. After a lengthy discussion of what a dwelling-house was he concluded (at 146) that its principal characteristic lay in its ability to afford to those who used it the facilities required for day-to-day private domestic existence. Among his earlier observations he had said:

> "Take a holiday cottage subject to time-share with a number of owners each enjoying the right to occupy it for two particular weeks each year. That would still be a dwelling-house."

This approach to the meaning of "dwelling-house" was approved by the Court of Appeal in *Moore v Secretary of State for the Environment* (1999) 77 P & CR 114, which concerned the question whether holiday flats, created by the conversion of outbuildings more than four years previously, were in use as single dwelling-houses under section 171B(2) of the Town and Country Planning Act 1990 so as to be immune from enforcement action. At 119 Nourse LJ, with whom Pill and Thorpe LJJ agreed, said:

> "In my judgment McCullough J.'s approach to the meaning of 'dwelling-house' was entirely correct. Although we were not referred to any of the many other decisions on the meaning of that word in other areas of the law, I am confident that an examination of them would reveal no requirement that before a building can be so described it must be occupied as the permanent home of one or more persons or the like."

Further instances of this approach under the planning legislation are to be found in *Bloomfield v Secretary of State for the Environment, Transport and the Regions* [1999] EWHC Admin 217 and *Grendon v First Secretary of State* [2006] EWHC 1711 (Admin), to which I was referred.

15. In contrast to the planning cases are those decided under the Housing and Rent Restriction legislation, where the policy behind the legislation has been particularly relied on for the purposes of construing "dwelling" and "dwelling-house". In *Skinner v Geary* [1931] 2 KB 546 Scrutton LJ referred at 559 to his earlier judgment in *Haskins v Lewis* [1931] 2 KB 1, where at 13 he had said that the purpose of the provisions in the Rent Restriction Acts was to protect the person residing in a dwelling-house from being turned out of his home. In *Curl v Angelo* [1948] 2 All ER 189 the Court of Appeal, referring to *Skinner v Geary* and adopting this approach, held that two rooms let to a tenant for use as extra bedroom accommodation for his hotel and usually occupied by guests of the hotel were not let as a "separate dwelling" for the purpose of the Rent Restrictions Acts.

16. The leading case in this category is *Uratemp*, on which Mr Summers relied. There the question was whether a single room in a hotel occupied by a long-term resident was a "dwelling" within the meaning of section 1(1) of the Housing Act 1988 so that the occupant was entitled to protection under the Act. The room contained a bed, some furniture, a shower and a basin. It lacked cooking facilities, but it had a power point, which could be used to enable simple meals to be prepared. The House of Lords held that the room was a "dwelling" for the purpose of the provisions. The law lords who gave reasoned judgments all referred to the need to take account of the context in attributing a meaning to the word "dwelling". At paragraph 3 Lord Irvine of Lairg LC said:

> "'Dwelling' is not a term of art, but a familiar word in the English language, which in my judgment in this context connotes a place where one lives, regarding and treating it as home."

17. At paragraph 19 Lord Bingham of Cornhill said:

> "Save that a dwelling-house may be a house or part of a house (1988 Act, section 45(1)), no statutory guidance is given on the meaning of this now rather old-fashioned expression. But the concept is clear enough: it describes a place where someone

> dwells, lives or resides. In deciding in any given case whether the subject-matter of a letting falls within that description it is proper to have regard to the object of the legislation, directed as it is to giving a measure of security to those who make their homes in rented accommodation at the lower end of the housing market."

18. At paragraph 15 Lord Steyn said:

> "The setting in which the word appears in the statute is important. It is used in legislation which is intended to afford a measure of protection to tenants under assured tenancies. This context makes it inappropriate for the court to place restrictive glosses on the word 'dwelling'. On the contrary, as counsel appearing as *amicus curiae* accepted, the courts ought to interpret and apply the word 'dwelling-house' in section 1 the 1988 Act in a reasonably generous fashion."

19. In a wide-ranging review of cases in which courts had been required to give a meaning to the word "dwelling", Lord Millett said (at paragraphs 30 and 31):

> "The words 'dwell' and 'dwelling' are not terms of art with a specialised legal meaning. They are ordinary English words, even if they are perhaps no longer in common use. They mean the same as 'inhabit' and 'habitation' or more precisely 'abide' and 'abode', and refer to the place where one lives and makes one's home…
>
> In both ordinary and literary usage, residential accommodation is a 'dwelling' if it is the occupier's home (or one of his homes). It is the place where he lives and to which he returns and which forms the centre of his existence."

20. Sometimes where it appears "dwelling" or "dwelling-house" is prefixed by the word "private" or is qualified by the requirement of use as "a private residence" (as in section 16 of the Landlord and Tenant Act 1985). In *Caradon v Paton* two houses owned by the council in Polruan, Cornwall, had been sold to their respective tenants under the right to buy legislation. Included in the purchasers' covenants in the conveyances was one that they would not "use or permit to be used the property for any purpose other than that of a private dwelling-house." The houses came to be used as holiday accommodation, and the council sought an injunction to prevent this. They failed in the county court, but heir appeal to the Court of Appeal was allowed. At [2000] 3 EGLR 57, 58J Latham LJ said:

> "The appellants submit, and I accept, that the purpose of the covenants was to protect the amenities of the surrounding neighbourhood, and also to try to ensure that the properties that were being sold remained as part of the housing stock that could be available as homes for people to live in. The concept of a home, therefore, is one that can properly be used in order to determine whether or not, in any given situation, the property in question is being used as a private dwelling-house for the purposes of the covenant."

21. The basic distinction between these two sets of authorities is that in some statutory contexts "dwelling" may imply use as a home whereas in others there is no such implication. It

is a matter, therefore, of examining the statutory context, and the policy behind the statutory provisions, in order to see whether "dwelling" is used with or without the implication of use as a home.

22. Although Mr Readings sought to derive help for his argument from the changes made to the Landlord and Tenant Act 1985 by the Landlord and Tenant Act 1987 and by contrasting the definition of "dwelling" in section 38 with the definition of "dwelling-house" in section 16, I do not think that such an examination enables sufficiently clear conclusions to be drawn as to assist materially in determining the point in dispute. Before the Landlord and Tenant Act 1987 the service charge provisions of the Landlord and Tenant Act 1985 applied only to flats. Section 18(1) provided: "In the following provisions of this Act 'service charge' means an amount payable by a tenant of a flat ..." Section 38(1) defined "flat" to mean:

> "a separate set of premises, whether or not on the same floor, which –
>
> (a) forms part of a building,
>
> (b) is divided horizontally from some other part of the building, and
>
> (c) is constructed or adapted for use for the purposes of a dwelling and is occupied wholly or mainly as a private dwelling."

23. The Housing Act 1985, which was enacted on the same day as the Landlord and Tenant Act 1985, contained in sections 46 to 51 similar provisions relating to service charges as those in the latter Act. Under section 45(1) they applied where –

> "(a) the freehold of a house has been disposed of by a public sector authority,
>
> (b) the conveyance or grant, or in the case of an assignment of a lease, the lease enabled the vendor to recover from the purchaser or lessee a service charge, and
>
> (c) the house is not a flat within the meaning of sections 18 to 30 of the Landlord and Tenant Act 1985 (which make provisions for flats corresponding to that made by the following provisions of this Act)."

Section 56 provided: "'house' includes any yard, garden, outhouses and appurtenances belonging to the house or usually enjoyed with it." The right to buy under the 1985 Act was conferred on the tenant of a local or other specified authority who "is an individual and occupies the dwelling-house as his only or principal home": see section 81.

24. Section 41 of the Landlord and Tenant Act 1987 then changed these provisions. It provided:

> "41. Amendments relating to service charges
>
> (1) Sections 18 to 30 of the 1985 Act (regulation of service charges payable by tenants) shall have effect subject to the amendments specified in Schedule 2 (which include amendments –
>
> (a) extending the provisions of those sections to dwellings other than flats, and
>
> (b) introducing certain additional limitations on service charges).

(2) Sections 45 to 51 of the Housing Act 1985 which are, so far as relating to dwellings let on long leases, superseded by sections 18 to 30 of the 1985 Act as amended by Schedule 2) shall cease to have effect in relation to dwellings so let."

Schedule 2 provided in that "dwelling" was to be substituted for "flat" in section 18(1) and other sections of the Landlord and Tenant Act 1985 and that the definition of "flat" was to be omitted from section 30. It did not amend the definition of "dwelling" in section 38 (for instance by inserting a requirement that it should be occupied as a private dwelling).

25. Mr Readings said that the amendments made by the 1987 Act were intended to widen the scope of the protection conferred by sections 18 to 30, in particular by applying them to the houses that had been the subject of similar provisions under the Housing Act 1985. The definition of "house" in that Act was a wide one, and was not confined to a dwelling used as a home. In widening the scope of the protection conferred by those sections Parliament had done so by using the term "dwelling" as already defined in section 38 rather than "dwelling-house" as defined in section 16, where the qualifying words "let as a private residence" appeared. As I have said, I do not think that any clear conclusions can be drawn from this sort of examination. Indeed there is an obvious contrary argument.

26. Prior to the 1987 Act amendments there were two sets of provisions, on the one hand sections 18 to 30 of the Landlord and Tenant Act 1985 and on the other sections 46 to 51 of the Housing Act 1985. Sections 18 to 30 applied to a flat only if it was "occupied wholly or mainly as a private dwelling" and the Housing Act provisions to a house bought under the right to buy provisions by an individual who "occupies the dwelling-house as his only or principal home". Of course the house bought under the right to buy provisions might cease to be the only or principal home of the purchaser and sections 46 to 51 would still apply; and it could, unless the conveyance included a covenant of the sort that was included in such circumstances in *Caradon v Paton*, be used as holiday accommodation. But it obviously formed no part of the purpose of the provisions of sections 46 to 51 that they should benefit a person who did not occupy the house as his only or principal home. That they might do so was simply an incidental consequence. Thus, if the scope of sections 18 to 30 was previously limited to flats that were used as the occupiers' homes, bringing within those sections the protection previously given under the Housing Act would not suggest that there was an intention to widen the scope of the provisions so as to remove that limitation. The definition of flat included the requirement that the premises should be occupied wholly or mainly as a private dwelling, and that, in the light of *Caradon v Paton*, would imply that such a limitation was included.

27. My conclusion, however, is that the answer to the point in issue is to be derived not from an examination of the detail of the language used in the provisions and the changes that have been made to them but from a more general consideration. It is clear from *Uratemp* that "dwelling", where it appears in legislation conferring protection on tenants, will convey its ordinary meaning of the occupier's home unless there is something that suggests it should not be so limited. I can see nothing that would suggest that in relation to sections 18 to 30 the protection conferred should be extended to premises that are not a person's home. It goes without saying that the planning cases, concerned as they are with legislation in a quite different field, provide no assistance.

28. There is recent authority on the scope of sections 18 to 30 that requires consideration. This is the case of *Ruddy v Oakfern Properties Ltd* [2007] Ch 335, a decision of the Court of Appeal upholding a decision of this Tribunal (His Honour Michael Rich QC). The question in the case was whether the subtenant of one of 24 flats in a building had the necessary locus standi to make an application in respect of a service charge that the mesne landlord was obliged to pay to the freeholder, the subtenant himself being obliged under his subtenancy to pay one twenty-fourth of the amount of the service charge to the mesne landlord. It was held that the subtenant did have the necessary locus standi.

29. Under section 18(1) a service charge is an amount "payable by a tenant of a dwelling". The question was whether the mesne landlord was "a tenant of a dwelling" for this purpose, and in particular, therefore, whether the subtenant's flat of which the mesne landlord was a tenant was a "dwelling". At paragraph 73, Jonathan Parker LJ, with whom Pill and Moses LJJ agreed, said:

> "73. The definition in section 38 does not require that the tenant should himself be in occupation of the dwelling, and hence it is apt to include a tenant who has sublet (ie a mesne landlord)."

30. He went on to state his conclusion that, notwithstanding that the mesne landlord owned the entire building, he was nevertheless a tenant of "part of a building occupied or intended to be occupied as a separate dwelling" (the words used in section 38). He explained:

> "74. In the first place, unless the legislative context (and in particular the relationship, if any, between the service charge provisions in the 1985 Act and the Rent Acts) or the practical consequences of such a construction require otherwise, I can find no satisfactory reason for construing the definition of 'dwelling' in section 38 so as to exclude a tenant from the definition merely because whilst he is the tenant of a dwelling which extends only to part of a building, he is also the tenant of other parts of the building, be such other parts dwellings or common parts or some other type of property altogether (e.g. commercial property)."

31. The lord justice then rejected a particular argument of counsel for the appellant relating to section 3 of the Act, and he continued:

> "78. I also reject the suggestion that there is any significant relationship between the service charge provisions and the Rent Acts. As the judgments in *Horford* make clear (see in particular the extract from Scarman LJ's judgment, quoted in paragraph 34 above), the decision in that case was materially influenced by the underlying policy of the Rent Acts. The policy underlying the service charge provisions in the 1985 Act and earlier Acts is, however, a different policy in that its emphasis is not so much on protecting the tenant in his home as on providing him with a way of challenging unreasonable charges sought to be levied by his landlord. I can, for my part, see no reason why the policy considerations which led this court in *Horford* to decide that a tenancy of a block of flats is not within the protection of the Rent Acts should lead to the conclusion that a tenant of a flat in a block who happens also to be a tenant of

another flat (or flats) in the same block, and/or of the common parts in the building, is not, for that reason, within the protection of the service charge provisions.

79. Indeed, looking at the entirety of the legislative history, as presented in argument, it does not seem to me to lead to the conclusion that section 18(1) should have any meaning other than that which, on its face, it bears."

32. Jonathan Parker LJ thus distinguished the underlying policy of the provision from that of the Rent Acts. However, in saying that "its emphasis is not so much on protecting the tenant in his home as on providing him with a way of challenging unreasonable charges sought to be levied by his landlord", he was not, it seems to me, saying that it was no part at all of the policy to limit protection to premises occupied by a person as his home. Nor does the fact that in that case the provisions were held to benefit a mesne landlord assist the argument that they should be treated as applying to holiday accommodation, and Mr Readings does not suggest that it does.

33. My conclusion, therefore, is that the LVT was right. There is no reason to give to the word "dwelling" as it applies to sections 18 to 30 a meaning other than the one it ordinarily bears in legislation giving protection to tenants. It imports a requirement that the dwelling should be occupied as a home and it therefore excludes from the operation of sections 18 to 30 these holiday bungalows because their use is restricted to providing holiday accommodation. The appeal is dismissed.

Dated 20 March 2008

George Bartlett QC, President