



[2019] UKFTT 0023 (PC)

REF/2017/1076

**PROPERTY CHAMBER, LAND REGISTRATION  
FIRST-TIER TRIBUNAL**

**LAND REGISTRATION ACT 2002**

**IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY**

**BETWEEN**

**Trivelles Grand Limited**

**APPLICANT**

**and**

**Gurnam Kaur Gill**

**RESPONDENT**

**Property Address: Land and buildings on the west side of Cromford Court,  
Derby Road, Matlock Bath, Matlock  
Title Number: DY355967**

**Before Judge Nigel Gravells  
Sitting at Doncaster Justice Centre  
On 3 October 2018**

---

**ORDER**

---

IT IS ORDERED as follows:

The Chief Land Registrar is to cancel the application made by the Respondent on 11 August 2017.

Dated 29 November 2018

By order of the Tribunal

*Nigel Gravells*





[2019] UKFTT 0023 (PC)

REF/2017/1076

**PROPERTY CHAMBER, LAND REGISTRATION  
FIRST-TIER TRIBUNAL**

**LAND REGISTRATION ACT 2002**

**IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY**

**BETWEEN**

**Trivelles Grand Limited**

**APPLICANT**

**and**

**Gurnam Kaur Gill**

**RESPONDENT**

**Property Address: Land and buildings on the west side of Cromford Court,  
Derby Road, Matlock Bath, Matlock  
Title Number: DY355967**

**Before Judge Nigel Gravells  
Sitting at Doncaster Justice Centre  
On 3 October 2018**

Applicant Representation: Mr Nathan Smith of counsel instructed by Addleshaw Goddard  
Respondent Representation: Mr Carl Fender of counsel instructed by BRM

---

**DECISION**

---

*Contract for sale of land – unilateral notice registered – application to remove notice based on contention that contract terminated – whether contract terminated*

## **Introduction**

- 1 The Respondent, Mrs Gurnam Kaur Gill, is the registered proprietor of land and buildings on the west side of Cromford Court, Derby Road, Matlock Bath, Matlock ('the subject property') under title number DY355967. By written agreement dated 29 April 2016 she contracted to sell the subject property to the Applicant, Trivelles Grand Limited. On 9 August 2016 the Applicant entered a unilateral notice against the registered title to the subject property to protect the Applicant's interest under that contract. On or about 12 June 2017 the unilateral notice was cancelled but on 5 July 2017 it was re-entered.
- 2 On 11 August 2017 the Respondent applied to cancel the unilateral notice, contending that the contract had been terminated. The Applicant objected to that application and, since the parties were unable to resolve their dispute by agreement, on 20 November 2017 HM Land Registry referred the dispute to the First-tier Tribunal under section 73(7) of the Land Registration Act 2002.
- 3 It is necessary for me to determine whether the contract dated 29 April 2016 has been terminated.
- 4 At the hearing at Doncaster Justice Centre on 3 October 2018 the Applicant was represented by Mr Nathan Smith of counsel and the Respondent was represented by Mr Carl Fender of counsel.
- 5 On 27 September 2018 the Applicant had informally requested an adjournment of the hearing, which I had refused. At the hearing Mr Smith formally renewed that application and further applied for a witness statement and supporting documents to be admitted in evidence. Mr Fender, on behalf of the Respondent, not only resisted those applications but applied for the Applicant's case to be struck out pursuant to the Tribunal's powers under rules 8 and/or 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

## **Decision on the adjournment application and related applications**

- 6 Mr Fender's arguments centred on the failure of the Applicant to comply with the Directions of the Tribunal and to provide documentation.
- 7 Following the referral of the dispute to the Tribunal, on 28 November 2017 the Tribunal issued Directions for the submission of the parties' Statements of Case, that of the Applicant by 8 January 2018 and that of the Respondent 28 days after she received the Applicant's Statement of Case. The Applicant provided its Statement of Case to the Tribunal but not to the Respondent. On 26 January 2018 the Tribunal sent a follow-up

letter and on 13 February 2018 served an 'unless order' on the Applicant. The Respondent finally received a copy of the Applicant's Statement of Case on 20 February 2018.

- 8 On 20 March 2018 the Respondent provided her Statement of Case. On 26 April 2018 the Respondent complied with the Tribunal's directions, dated 5 April 2018, relating to disclosure, witness statements and the completion of Form LRHRG. On 18 September 2018 the Respondent complied with the Tribunal's directions, dated 1 August 2018, relating to trial bundles. On 26 September 2018 the Respondent complied with the Tribunal's directions, dated 1 August 2018, relating to skeleton arguments, list of issues and chronology.
- 9 However, nothing further was heard from the Applicant between 20 February 2018 and 27 September 2018. During that seven-month period, in addition to the Directions referred to in the preceding paragraph, the Tribunal had sent to the Applicant at least four letters; and the Respondent had copied documents to the Applicant and sent other letters and emails.
- 10 The Applicant's silence was finally broken mid-afternoon on 27 September 2018, when the Tribunal received an email from Ms Summer Gill, the Applicant's Head of Legal, stating that the Applicant had only that day received documentation from the Respondent, which indicated that a hearing was scheduled for 3 October 2018. Ms Summer Gill stated that the Applicant had received no correspondence from the Tribunal; and she requested that the hearing be postponed since there was little time to arrange legal representation.
- 11 As noted above, that request was refused but at the hearing Mr Smith made a formal application that the hearing be adjourned. He submitted a witness statement of Ms Summer Gill, which stated that the Applicant had relocated 'several months back' and that, although it had arranged for the redirection of post, nothing had been received from the Tribunal or the Respondent. Ms Summer Gill admitted that she had recently discovered emails from the Respondent in her spam folder.
- 12 I found the Applicant's case for adjournment less than compelling. Even if the Applicant did not receive a single letter from the Tribunal or the Respondent (which seems highly improbable), it is difficult to understand the inaction on the part of the Applicant. Tribunal proceedings had commenced and the Applicant had participated in those proceedings by submitting its Statement of Case; yet it had failed to notify the Tribunal of its change of address and, although the Directions for Statements of Case indicated that

further Directions would be issued and that the hearing would probably take place in the spring or summer of 2018, for over seven months the Applicant had failed to inquire as to the progress of the proceedings.

- 13 I therefore had no hesitation in refusing the application for adjournment of the hearing.
- 14 Turning to the Respondent's application that the Applicant's case be struck out, while the conduct of the Applicant outlined above could be seen to provide good reasons for doing so, I was persuaded that that would be a step too far. First, the value of the subject property may be significantly greater than the contract price and it is preferable that the entitlement to that premium should be determined after the factual evidence and legal consequences have been fully considered. Second, having been denied its informal request for an adjournment, the Applicant immediately instructed solicitors, who in turn instructed counsel; and Mr Smith submitted a full skeleton argument the day before the hearing.
- 15 The next question was whether I should admit in evidence the witness statement (and supporting documents) of Kamran Armani, who appears to have been the leading player for the Applicant in its dealings with the Respondent. Having read the witness statement, I took the view that its admission would not prejudice the Respondent. It contained nothing that would ambush the Respondent and it did not provide Mr Smith with the basis for lines of cross-examination that would not have been expected. I decided that I would admit the witness statement (and supporting documents) and attach such weight as seemed appropriate.
- 16 Finally, although Mr Fender had been able to read Mr Smith's skeleton argument the day before the hearing, there had been no opportunity to consider the lengthy authorities on which Mr Smith relied. I therefore decided that I should proceed to hear the evidence on the factual issues and then give counsel more time to exchange written representations on the legal issues raised by the factual evidence.

### **Witnesses**

- 17 The principal witness for the Respondent was her husband, Mr Kuldip Singh Gill. With his wife's authority he had dealt with the negotiations relating to the subject property both before and after exchange of contracts.
- 18 Mrs Gill was also called to give evidence but it immediately became apparent that her command of English was extremely limited; and both counsel accepted that her witness statement and oral evidence were of no assistance to the Tribunal.

19 There were no witnesses for the Applicant present at the hearing.

## **Factual background**

### *Negotiation and contracts*

- 20 Mr and Mrs Gill, together with other members of their family, operate a business of buying and selling investment properties. In April 2000 Mrs Gill purchased the subject property, which comprises three apartments, and she became and remains registered as sole registered proprietor under title number DY355967. At the same time Mrs Gill and her sister-in-law, Daljeet Kaur Gill, purchased Cromford Court, a manor house with 35 bedrooms, adjacent to the subject property. Mrs Gill and her sister-in-law became and remain registered as joint registered proprietors under title number DY321005.
- 21 In February 2016 Mr Gill was in Thailand for meetings with people potentially interested in purchasing investment properties in the United Kingdom. He was introduced to Kamran Armani, whose businesses included Trivelles Grand Limited, a property development company. In the course of discussions, Mr Armani expressed interest in purchasing the subject property and Cromford Court, for potential conversion into a hotel.
- 22 Starting on 7 March 2016 there followed an email exchange between Ms Jenna Dodd of Teacher Stern LLP, solicitors acting on behalf of Mrs Gill and her sister-in-law, and Ms Julia Lees, of Ramsdens, solicitors acting on behalf of Mr Armani and the Applicant. That exchange initially related to the sale and purchase of Cromford Court only. However, an email dated 6 April 2016 referred to a recent telephone conversation between the solicitors relating the sale and purchase of the subject property. It appears that in late March 2016, Mr Gill met Mr Armani and some of his colleagues at the properties and Mr Armani agreed in principle to purchase both properties for a combined sum of £2.4 million.
- 23 The details of that agreement were set out in an email dated 7 April 2016 from Mr Armani to his solicitor –

The site consists of a complete freehold site plan as shown in the Land Registry Title number DY321005, a main building as well as a west wing and associated buildings, grounds and paths marked in the land registry plan. The purchase price of the complete site is agreed as GBP 2.4 million and I will purchase this in two stages, step by step on Trivelles Grand Limited's name. I will purchase the main building plus associated land, private road entrance, parking etc for GBP 1.2 million. Exchange will take place with 10% deposit which is GBP 120,000. Deposit is being sent to you in due course. Legal completion of the main building and associated land will then take place in 12 months of exchange date. I may pay earlier than 12 months. In case of early payment equivalent to GBP 500,000 (including

deposit) is made then the seller will grant me the possession of the site as per mutual agreement.

The above is conditional that I will purchase the west wing at a pre-agreed price of GBP 1.2 million. Once the legal completion is taken place of the main building, I will exchange on the west wing and pay further GBP 120,000 deposit following this exchange, I will pay the outstanding balance of GBP 1,080,000 over 5 years at 5% p.a. interest rate fixed for the term. Until this balance is paid off, the seller will be granted a first legal charge over the main building as a security. ...

To provide the seller with certainty as to when completion of the West Wing will take place, it would be prudent to have long stop date e.g. if I do not complete the purchase by 30<sup>th</sup> April 2021, then the balance of £1,080,000 will become immediately due to the seller.

- 24 The email exchange between the solicitors continued as the terms of the proposed agreement were revised.
- 25 On 29 April 2016 separate contracts for the sale and purchase of Cromford Court and the subject property were exchanged. According to those contracts the purchase price for each property was £1.2 million; and the deposits were £119,000 and £1,000 respectively. Completion dates were, for Cromford Court, 22 April 2017 or earlier at the buyer's request and upon giving at least 28 days' notice to the seller and, for the subject property, 22 April 2021 or earlier at the buyer's request and upon giving at least 28 days' notice to the seller.
- 26 The email exchanges and earlier versions of the contracts suggested that the financing of the purchase of the two properties was to some extent interlinked. However, the only express link in the final versions of the contracts was the provision for the payment of interest on the outstanding purchase price of the subject property from the date of completion of the purchase of Cromford Court.

#### *Post-contract negotiations*

- 27 According to the Tribunal bundle, on 6 April 2017 an email exchange started between Mr Gill and Mr Kamran Tahir. (The hearing bundle prepared by the Respondent seemed to suggest that Kamran Tahir and Kamran Armani (who is also known as Kamran Khan) are the same person. In his oral evidence Mr Gill did not indicate otherwise. However, in Mr Smith's post-hearing submissions, he confirmed (what he cannot be criticised for failing to explain at the hearing) that Kamran Armani and Kamran Tahir are different individuals, the former being the sole Director of Trivelles Grand Limited and the latter being its General Counsel.) Mr Tahir indicated that the Applicant wished to complete the purchase of both properties without the previously agreed extended finance over five years. He invited Mr Gill 'to advise the last price [he] will accept if we close the deal in this manner'. Mr Gill responded by offering a £50,000 reduction on the outstanding

balance of £2.28 million for both properties, provided that the transfer of both properties was completed on or before 21 April 2017.

28 On 7 April 2017 Mr Tahir stated that, because the Applicant had been unable to find a buyer for the properties, it was seeking to finance the transaction itself; but that it would require a three-month extension for completion in order to arrange that financing.

29 On 8 April 2017 Mr Gill explained that he had to repay a loan of £500,000 on 21 April 2017; and that, if the Applicant could pay that sum by 21 April 2017, he would agree to the three-month extension.

30 On 10 April 2017 Mr Tahir indicated that the Applicant would not be able to make such a payment but that it would seek to be in a position to complete the transfers in less than three months. Mr Gill stated that he required a minimum of £400,000 and a personal guarantee from 'Kamran' that the Applicant would complete within three months.

31 On 11 April 2017 Mr Tahir replied:

I have advised you of our stance in this matter.

We will not make any payment for an extension.

In view of this situation I suggest we move forward and terminate the contract by way of mutual consent and you may retain the deposit of 125K.

We will not pursue raising the finance of 2.3m as it is clear you are not willing to wait 3 months.

Mr Gill responded:

What are you willing to pay I am not asking any funds on top all I am asking is to pay something so that we can extend the contract.

Mr Tahir replied:

No payment we just want an extension.

32 On 18 April 2017 Mr Tahir stated:

Please advise if you are willing to agree our terms as set out in my email below.

We can then work to conclude this transaction.

It is not clear to which terms he is referring in that email.

33 It is also not clear whether the email exchange continued; but no further emails were put in evidence by the Respondent. However, it is not disputed that, following the service (on or about 28 April 2017) of a notice to complete in respect of the contract for Cromford Court and the failure of the Applicant to respond to the notice, that contract was terminated (on or about 15 May 2017).

34 According to Mr Gill he had a telephone conversation with Mr Armani sometime during the week following 18 April 2017 in which it was agreed that the contract for the subject



property should also be terminated. The Applicant denies that there was any such agreement.

#### *Subsequent events*

- 35 Consequent upon the termination of the contract in respect of Cromford Court, on 12 June 2017 the Applicant purported to apply for the removal of the unilateral notice entered on the registered title to protect its interest under that contract. However, the application mistakenly stated the title number of the subject property and as a result the unilateral notice relating to the contract in respect of the subject property was removed.
- 36 In the meantime Mr Gill had identified a potential new purchaser (Cromford Investments Limited) for the two properties at a combined price of £4.2 million. Land Registry searches revealed the unilateral notice relating to the contract between the Applicant and the Respondent in respect of Cromford Court.
- 37 The Applicant agreed to remove that notice provided that the Respondent agreed to reinstate the notice relating to the subject property. Although the Respondent obtained an injunction for the removal of the notice relating to Cromford Court, Cromford Investments Limited pulled out of the agreement for the sale and purchase of both properties. The consequent ending of the priority period allowed the Applicant to secure reinstatement of the unilateral notice relating to the subject property.
- 38 On 11 August 2017 the Respondent made the application for cancellation of that notice, which is the subject of the current dispute.
- 39 On 16 August 2017 Mr Gill and Mr Armani had a face-to-face meeting. The Applicant put in evidence an email exchange between Mr Gill and Mr Armani on 16 and 17 August 2017. Although it is difficult to make complete sense of the emails (not least because the chronology of the emails is not clear), there appears to have been some discussion of a deal relating to Cromford Court (and possibly also the subject property) between Mr Gill, Mr Armani and Cromford Investments Limited.

#### **Issues for determination**

- 40 The question for determination is whether the contract dated 29 April 2016 for the sale and purchase of the subject property has been terminated. That requires me to consider the submissions of the parties that the contract has indeed been terminated.
- 41 It is argued on behalf of the Respondent that the email exchange of April 2017 and/or the alleged telephone conversation referred to in paragraph 34 above effected a termination

of the contract by reason of (i) renunciation on the part of the Applicant or (ii) accord and satisfaction.

- 42 The Respondent expressly does not rely on two further arguments, which the Applicant originally sought to counter. The first argument was that the contract in respect of the subject property was so inextricably linked with the contract in respect of Cromford Court that the admitted termination of the latter contract had the effect of automatically terminating the former contract as well. The second argument was based on the Respondent's failure to respond to a letter from the Applicant's solicitors dated 7 July 2017 and alleged repudiatory breach by the Respondent.

### **Legal submissions**

- 43 The parties made lengthy submissions on the legal requirements of renunciation and accord and satisfaction.
- 44 In summary, as to renunciation, Mr Fender, for the Respondent, argued that it was necessary to establish that the Applicant had evinced its intention not to perform the contract, or had indicated that it was or would be unable to perform, and that the Respondent had clearly accepted that renunciation. As to accord and satisfaction, Mr Fender argued that it was necessary to establish that the parties had agreed that each party would be released from its obligation to perform the contract and that each party would surrender its contractual rights and remedies in respect of non-performance by the other party.
- 45 Mr Smith, for the Applicant, did not significantly disagree with Mr Fender's arguments as to the requirements for renunciation. As to accord and satisfaction, Mr Smith argued that, where a contract is required to be in writing by virtue of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the discharge or rescission of that contract must also be in writing. In any event, he argued that termination by accord and satisfaction required the Respondent to establish a clear agreement that each party would surrender its contractual rights and remedies in respect of non-performance by the other party.
- 46 Given my determination on the factual issues, it is unnecessary for me express any views as to any divergence between the parties on the legal issues.

## **Determination on the factual issues**

### *Evidence*

- 47 In determining the factual issues I have considered the written and oral representations of the parties. As indicated above (paragraph 15), I admitted in evidence the witness statement (and supporting documents) of Kamran Armani. I took the view that its admission would not prejudice the Respondent. It contained nothing that would ambush the Respondent and it did not provide Mr Smith with the basis for lines of cross-examination that would not have been expected.
- 48 I am bound to say that I did not find Mr Gill's evidence to be entirely reliable. In cross-examination he made a number of assertions that were shown to be inconsistent with the evidence of emails included in the Respondent's documentation; and he was vague in his recollection of certain crucial dates. While I do not suggest that he was dishonest, I would agree with Mr Smith that he seemed to be more concerned to give answers that would support his case than to provide (full and accurate) answers to specific questions.

### *The relationship between the contracts*

- 49 Although the Respondent did not pursue an argument that the completion of the contract in respect of the subject property was conditional on completion of the contract in respect of Cromford Court, or the contract in respect of the subject property was so inextricably linked with the contract in respect of Cromford Court that the admitted termination of the latter contract had the effect of automatically terminating the former contract. Mr Fender submitted that the parties saw the purchase of the two properties as elements of a single project for the development of a luxury hotel; that that vision and approach was demonstrated in the email exchange of March/April 2016; and that that provided the context of the first email of 11 April 2017 (see paragraph 31 above). He submitted that the suggestion of Mr Tahir (not, as stated in Mr Fender's skeleton argument, Mr Armani) that the contract be terminated should be seen as a reference to the entire deal, comprising both contracts. Mr Fender submitted that the alleged telephone conversation, in which the parties agreed to 'walk away from both contracts', is consistent with the same context.
- 50 Mr Smith, for the Applicant, submitted that, while there may have been a 'connection' between the two contracts, they were professionally drafted as separate contracts; and that any factual connection was irrelevant to the construction of either contract.

51 I find that, in determining whether the contract in respect of the subject property has been terminated, any factual 'connection' with the contract in respect of Cromford Court has no legal significance.

*The email exchange of April 2017*

52 The email exchange of April 2017 shows that Mr Tahir was proposing to reschedule the completion of both contracts for mid-2017, a few months after the default date for the completion of the contract in respect of Cromford Court but nearly four years before the default date for the completion of the contract in respect of the subject property. On that basis Mr Gill indicated a willingness to reduce the total purchase price but requested an advance payment from the Applicant in order to repay a loan of £500,000. Mr Tahir was unable to agree to that request and the parties appeared to be at an impasse. However, even if the suggestion in Mr Tahir's first email of 11 April 2017 – that the parties should terminate the contract by way of mutual consent - constitutes an offer by the Applicant to terminate the contract in respect of the subject property – and that it far from clear – or a renunciation of that contract, Mr Gill's reply cannot be construed as an acceptance by the Respondent of that offer or renunciation. Rather Mr Gill sought to continue negotiations to ensure completion of both contracts and in the meantime to secure funds from the Applicant in order to repay the loan. Mr Tahir's response seems to continue those negotiations, as does his email of 18 April 2017.

53 I therefore determine that the email exchange of April 2017 fell well short of effecting a termination of the contract in respect of the subject property – either by renunciation or by accord and satisfaction.

*Alleged telephone conversation*

54 The Respondent asserted that soon after the email exchange – he was unable to pinpoint the exact date - he had a telephone conversation with Mr Armani, in which the parties agreed to 'walk away from both contracts'. In his witness statement Mr Armani denied that there was any such oral agreement; but he was not available for cross-examination on the issue.

55 Assuming that there was a telephone conversation between Mr Gill and Mr Armani – and Mr Armani does not appear to deny that – Mr Smith argued that the alleged oral agreement to terminate the contracts was inconsistent with the contemporaneous documentation and the conduct of Mr Gill and the parties' solicitors –

- (i) The termination of the contracts would have made no sense if, as the April 2017 email exchange appeared to demonstrate, the Respondent needed funds to repay a loan and had no other purchaser for either property.
- (ii) If the contracts had been terminated on or about 18 April 2017, there would have been no need to serve a notice to complete on or about 28 April 2017 to complete the contract in respect of Cromford Court.
- (iii) If the contracts had been terminated, Mr Gill would have informed the Respondent's solicitor, who would have corresponded with the Applicant's solicitor; but there is no record of any such communications.
- (iv) The actions of the Applicant's solicitor – and the witness statement of Mr Paul Booth - in relation to the removal and reinstatement of the unilateral notices are inconsistent with the assertion that both contracts had been terminated.
- (v) Mr Gill's meeting(s) with Mr Armani in August 2017 and the email exchange between Mr Gill and Mr Armani on 16 and 17 August 2017 seem to indicate a continuing relationship between the parties and make no reference to any prior termination of the contract in respect of the subject property. Mr Smith noted that the Respondent's bundle did not include that email exchange.

56 In response Mr Fender, on behalf of the Respondent, argued that there was no evidence as to the reasons why the Respondent's solicitors served the notice to complete. He also invited the Tribunal to reflect on why Mr Gill would seek to market the two properties if he did not believe that contracts had terminated.

57 Mr Gill sought to explain that the ongoing discussions with Mr Armani were his response to Mr Armani's 'business style to change his mind when he learns there may be an opportunity his advantage'; and that he was 'walking a fine line' in trying to secure the removal of the unilateral notice. Mr Smith submitted that there was no evidence to corroborate these alleged traits of Mr Armani.

58 On balance, I find the arguments of the Applicant more persuasive. First, on two occasions in cross-examination Mr Gill appeared to agree that the contract in respect of the subject property was still existence following the April 2017 email exchange and the alleged telephone conversation. Second, I find that it is highly unlikely that, if the parties had orally agreed to terminate the contract in respect of the subject property, they would not have confirmed that agreement by email or otherwise in writing. Third, I find the contemporaneous documentation and the actions of the parties more consistent with the

Applicant's submission that the contract in respect of the subject property remained (and remains) in existence.

*Conclusion*

59 For the reasons set out above, I find that the contract in respect of the subject property was not terminated.

**Order**

60 I direct the Chief Land Registrar to cancel the application made by the Respondent on 11 August 2017.

**Costs**

61 In this Tribunal costs normally follow the event and in principle the Applicant, as the successful party, is entitled to have its costs paid by the Respondent. If the Applicant wishes to apply for its costs incurred since the date of reference from HM Land Registry it must within 28 days of the date of this Order provide to the Tribunal and to the Respondent a schedule of its costs. The Respondent will have a further 28 days to make any representations about liability or about the amount claimed. The Applicant will then have a further 21 days to respond.

Dated 29 November 2018

*Nigel Gravell*

By order of the Tribunal

