



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)**

Case Reference : **LON/00AP/OCE/2021/0079**

Property : **63, The Avenue, Tottenham, London
N17 6TB**

Applicants : **(1) Paul Pavlou
(2) Maria Pavlou
(3) Peter Pavlou**

Representative : **YVA Solicitors**

Respondent : **Mr. David Taylor**

Type of Application : **A determination of amount of the
appropriate sum to be paid into Court
under the section 27(5) of the Leasehold
Reform Act 1967**

Tribunal Members : **Tribunal Judge S.J. Walker
Tribunal Member S. Redmond MRICS**

**Date and venue of
Hearing** : **Decided on the Papers**

Date of Decision : **9 November 2021**

DECISION

Decisions of the Tribunal

- (1) That the purchase price for the freehold interest in 63, The Avenue, Tottenham, London N17 6TB is determined to be £46,313 less £342.90 as directed making a total payable of £45,970.10.
- (2) That the Applicant shall pay the purchase price into Court pursuant to section 27(5) of the Leasehold Reform Act 1967.

Reasons

The application

1. The Applicants issued an application in the Edmonton County Court on 28 May 2019 for an order under section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) and on 12 September 2019 District Judge Cohen made a vesting order under section 26(1) of the Act and ordered that the Applicants may make an application to the Tribunal for a determination under section 27(5) of the Act of the amount to be paid into Court for the transfer of the freehold of the property, the landlord being missing.
2. The Tribunal is therefore asked by the Applicants to determine the single issue of the price payable for the transfer of the freehold interest pursuant to section 21 of the Act.
3. Directions were issued on 7 May 2021. They directed that the application should be determined on the papers alone. The directions also required the Applicants to prepare a bundle of documents. In compliance with those directions the Applicants’ solicitors provided a detailed bundle of documents comprising 88 pages.
4. The Tribunal considered rules 3 and 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and was satisfied that it was appropriate to determine the application without a hearing.

The Evidence

5. The bundle produced by the Applicants included;
 - (a) a witness statement from Angela Alexiou;
 - (b) the judgment from the County Court;
 - (c) the register of title of the freehold interest – title No. NGL289487;
 - (d) the register of title of the leasehold interests EGL188564 and EGL198252;
 - (d) a valuation report prepared by Mr. Andreas Christou MA MRICS; and
 - (e) a draft transfer
6. The property is subject to two leases. The first is of the first floor flat and is for a term of 99 years from 24 June 1986. The second is of the ground floor flat and is for the same term. The ground rents were initially £75 per annum, they increased to £150 per annum on 23 June 2019 and will increase again on 23 June 2052 to £225 per annum.
7. The property is a period mid-terraced property of brick construction finished in pebble dash and painted. The roof is pitched with interlocking tiles. The

property has been converted to create two residential units over ground and first floors. The premises are accessed via a communal front door and the common area is in basic condition. The flats themselves are in average condition internally. The property's condition is consistent with its age and type of construction.

The Determination

8. Utilising its expertise the Tribunal accepts the valuation provided in the report by Mr. Christou. It noted with respect to relativity that Mr Christou had been unable to find real world comparable evidence for the value of the short term lease and had therefore turned to graphs of relativity. He had not made use of the graphs preferred in the recent Deritend case. However, the Tribunal found that the relativity he selected was appropriate with reference to the Savill's and Gerald Eve 2015 graphs. On this basis it determines that the purchase price is £46,313.
9. From this sum the Country Court Judge instructed that an amount of £3,042.90 be set off being costs determined payable by the Defendant.
10. The Tribunal approves the draft transfer as drawn save in one respect. It bears in mind the provision in paragraph 2(2)(b) of Schedule 7 of the Act which requires that the existing freeholder shall not be bound to enter into any conveyance for title beyond those where a disposition is expressed to be made with limited title guarantee. It follows that paragraph 9 of the draft transfer must be amended so as to indicate that the transferor transfers with limited title guarantee.
11. The relevant legal provisions are set out in the appendix below.

Name: Tribunal Judge S.J.
Walker

Date: 9 November 2021

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

- The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

Appendix of relevant legislation

Leasehold Reform Housing and Urban Development Act 1993

section 26 Applications where relevant landlord cannot be found.

- (1) Where not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises but—
- (a) (in a case to which section 9(1) applies) the person who owns the freehold of the premises cannot be found or his identity cannot be ascertained, or
 - (b) (in a case to which section 9(2) or (2A) applies) each of the relevant landlords is someone who cannot be found or whose identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make a vesting order under this subsection—

- (i) with respect to any interests of that person (whether in those premises or in any other property) which are liable to acquisition on behalf of those tenants by virtue of section 1(1) or (2)(a) or section 2(1), or
 - (ii) with respect to any interests of those landlords which are so liable to acquisition by virtue of any of those provisions, as the case may be.
- (2) Where in a case to which section 9(2) applies—

- (a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and
- (b) paragraph (b) of subsection (1) does not apply, but
- (c) a notice of that claim or (as the case may be) a copy of such a notice cannot be given in accordance with section 13 or Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give such a notice or (as the case may be) a copy of such a notice to that person.

- (3) If in a case to which section 9(2) applies, that person is the person who owns the freehold of the premises, then on the application of those tenants, the court may, in connection with an order under subsection (2), make an order appointing any other relevant landlord to be the reversioner in respect of the premises in place of that person; and if it does so references in this Chapter to the reversioner shall apply accordingly.

(3A) Where in a case to which section 9(2A) applies—

- (a) not less than two-thirds of the qualifying tenants of flats contained in any premises to which this Chapter applies desire to make a claim to exercise the right to collective enfranchisement in relation to those premises, and
- (b) paragraph (b) of subsection (1) does not apply, but
- (c) a copy of a notice of that claim cannot be given in accordance with Part II of Schedule 3 to any person to whom it would otherwise be required to be so given because he cannot be found or his identity cannot be ascertained,

the court may, on the application of the qualifying tenants in question, make an order dispensing with the need to give a copy of such a notice to that person.

(4) The court shall not make an order on any application under subsection (1) (2) or (3A) unless it is satisfied—

- (a) that on the date of the making of the application the premises to which the application relates were premises to which this Chapter applies; and

- (b) that on that date the applicants would not have been precluded by any provision of this Chapter from giving a valid notice under section 13 with respect to those premises.
- (5) Before making any such order the court may require the applicants to take such further steps by way of advertisement or otherwise as the court thinks proper for the purpose of tracing the person or persons in question; and if, after an application is made for a vesting order under subsection (1) and before any interest is vested in pursuance of the application, the person or (as the case may be) any of the persons referred to in paragraph (a) or (b) of that subsection is traced, then no further proceedings shall be taken with a view to any interest being so vested, but (subject to subsection (6))—
- (a) the rights and obligations of all parties shall be determined as if the applicants had, at the date of the application, duly given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises to which the application relates; and
 - (b) the court may give such directions as the court thinks fit as to the steps to be taken for giving effect to those rights and obligations, including directions modifying or dispensing with any of the requirements of this Chapter or of regulations made under this Part.
- (6) An application for a vesting order under subsection (1) may be withdrawn at any time before execution of a conveyance under section 27(3) and, after it is withdrawn, subsection (5)(a) above shall not apply; but where any step is taken (whether by the applicants or otherwise) for the purpose of giving effect to subsection (5)(a) in the case of any application, the application shall not afterwards be withdrawn except—
- (a) with the consent of every person who is the owner of any interest the vesting of which is sought by the applicants, or
 - (b) by leave of the court,
- and the court shall not give leave unless it appears to the court just to do so by reason of matters coming to the knowledge of the applicants in consequence of the tracing of any such person.
- (7) Where an order has been made under subsection (2) or (3A) dispensing with the need to give a notice under section 13, or a copy of such a notice, to a particular person with respect to any particular premises, then if—
- (a) a notice is subsequently given under that section with respect to those premises, and
 - (b) in reliance on the order, the notice or a copy of the notice is not to be given to that person,

the notice must contain a statement of the effect of the order.

- (8) Where a notice under section 13 contains such a statement in accordance with subsection (7) above, then in determining for the purposes of any provision of this Chapter whether the requirements of section 13 or Part II of Schedule 3 have been complied with in relation to the notice, those requirements shall be deemed to have been complied with so far as relating to the giving of the notice or a copy of it to the person referred to in subsection (7) above.
- (9) Rules of court shall make provision—
 - (a) for requiring notice of any application under subsection (3) to be served by the persons making the application on any person who the applicants know or have reason to believe is a relevant landlord; and
 - (b) for enabling persons served with any such notice to be joined as parties to the proceedings.

27 Supplementary provisions relating to vesting orders under section 26(1).

- (1) A vesting order under section 26(1) is an order providing for the vesting of any such interests as are referred to in paragraph (i) or (ii) of that provision—
 - (a) in such person or persons as may be appointed for the purpose by the applicants for the order, and
 - (b) on such terms as may be determined by the appropriate tribunal to be appropriate with a view to the interests being vested in that person or those persons in like manner (so far as the circumstances permit) as if the applicants had, at the date of their application, given notice under section 13 of their claim to exercise the right to collective enfranchisement in relation to the premises with respect to which the order is made.
- (2) If the appropriate tribunal so determines in the case of a vesting order under section 26(1), the order shall have effect in relation to interests which are less extensive than those specified in the application on which the order was made.
- (3) Where any interests are to be vested in any person or persons by virtue of a vesting order under section 26(1), then on his or their paying into court the appropriate sum in respect of each of those interests there shall be executed by such person as the court may designate a conveyance which—
 - (a) is in a form approved by the appropriate tribunal, and
 - (b) contains such provisions as may be so approved for the purpose of giving effect so far as possible to the requirements of section 34 and Schedule 7;

and that conveyance shall be effective to vest in the person or persons to whom the conveyance is made the interests expressed to be conveyed, subject to and in accordance with the terms of the conveyance.

- (4) In connection with the determination by the appropriate tribunal of any question as to the interests to be conveyed by any such conveyance, or as to the rights with or subject to which they are to be conveyed, it shall be assumed (unless the contrary is shown) that any person whose interests are to be conveyed (“the transferor”) has no interest in property other than those interests and, for the purpose of excepting them from the conveyance, any minerals underlying the property in question.
- (5) The appropriate sum which in accordance with subsection (3) is to be paid into court in respect of any interest is the aggregate of—
 - (a) such amount as may be determined by the appropriate tribunal to be the price which would be payable in respect of that interest in accordance with Schedule 6 if the interest were being acquired in pursuance of such a notice as is mentioned in subsection (1)(b); and
 - (b) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of the conveyance, due to the transferor from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto).
- (6) Where any interest is vested in any person or persons in accordance with this section, the payment into court of the appropriate sum in respect of that interest shall be taken to have satisfied any claims against the applicants for the vesting order under section 26(1), their personal representatives or assigns in respect of the price payable under this Chapter for the acquisition of that interest.
- (7) Where any interest is so vested in any person or persons, section 32(5) shall apply in relation to his or their acquisition of that interest as it applies in relation to the acquisition of any interest by a nominee purchaser.