



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

Case Reference : **LON/00AZ/OCE/2022/0129**

Property : **15 Rembrandt Road London
SE13 5QH**

Applicants : **Nicholas Pritchard & Gwendolen
Martin - Ground floor flat
Stephen Perry and Naoko Perry -
First floor flat**

Representative : **Jade Wilson - Lease Law Ltd**

Respondent : **George Ernest Ellis**

Representative : **None**

Type of Application : **Leasehold Enfranchisement:
Missing Landlord s26-27
Leasehold Reform, Housing and
Urban Development Act 1993**

Tribunal Members : **Mr D Jagger MRICS (Valuer Chair)**

**Date of Paper
Determination** : **7th December 2022**

Date of Decision : **7th December 2022**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the appropriate sum to be paid into Court for the freehold interest in **15 Rembrandt Road London SE13 5QH** ('the property), pursuant to section 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 ('the 1993 Act'), is **£12,690** (Twelve thousand six hundred and ninety pounds)

1. This has been a paper decision which has been consented to by the applicants. The documents that were referred to, is in a bundle of two volumes which extends to 195 pages prepared by the applicants, plus the Tribunals Directions, the contents of which we have recorded. Therefore, the tribunal had before it an electronic/digital trial bundles of documents prepared by the applicants, in accordance with previous directions.

2. The tribunal did not inspect the property as it considered the documentation and information before it in the trial bundle enabled the tribunal to proceed with this determination

3. **The application**

1. On 30th December 2021, Jade Wilson of Lease Law Ltd solicitors issued a Part 8 Claim in Bromley County Court under claim number HO1BR712 seeking a vesting order under section 50(1) of the Leasehold Reform, Housing and Urban Development Act 1993 ('the Act'). This is therefore the date of valuation and we shall return to this matter later in this decision.

2. On 21st February 2022 the District Judge Brooks made an order in the matter subject to the various terms set out in that order

3. The applicants' representatives were unable to locate Mr George Ernest Ellis.

4. In accordance with the Vesting Order the application was submitted to the First Tier Property Tribunal and directions were issued on 10th October 2022. These provided that the case would proceed to a paper determination. The applicants have not objected to this or requested an oral hearing. The paper determination took place on 7th December 2022.

5. In accordance with the directions, the applicants' solicitors supplied the Tribunal with a well prepared and helpful bundle that contained copies of relevant documents from the County Court proceedings, various title documents, the two existing leases and a

comprehensive Expert Witness valuation report of Mr Stephen R Jones BA (Hons) MRICS dated 24th November 2021.

6. The relevant legal provisions are set out in the appendix to this decision.

The background

7. The leasehold interests in the two flats is now registered in names of the applicants by virtue of a transfer for the ground floor flat made on 17th August 2016 under Title No TGL19257 and the first floor flat dated 11th November 2011 under Title No SGL497715. The freehold of the building has been registered in the name of George Ernest Ellis under title number 419407 since the 18th December 1986.

8. The property is a mid terrace Victorian property located in an established residential area converted to form two self contained flats approached via a communal hallway. Each flat has one bedroom and the ground floor has the front and rear gardens included within the demise Each flat has not been subject to any significant internal alterations.

9. **The issues**

10. The Tribunal is required to determine the premium to be paid for the freehold interest of the 1993 Act and the appropriate sum to be paid into Court pursuant to section 27(1)-(7) of the Act.

11. The Tribunal is required to consider the terms of acquisition.

12. The Tribunal did not consider that an inspection of the flat was necessary under current circumstances, nor would it have been proportionate to the issues in dispute.

13. Having studied the various documents in the applicant's bundle, the Tribunal has made the determination set out below.

The sum to be paid into court

14. We determine that the premium payable under the 1993 Act is **£12,690** (Twelve thousand six hundred and ninety pounds) and this is the appropriate sum to be paid into Court under section 27(1). Our reasons are set out as follows.

15. In his report, Mr Jones valued the premium at £12,690 (£6511 ground floor flat, £6079 first floor flat and £100 communal areas) This was based on Freehold values of £360,00 for the ground

floor flat and £325,000 for the first floor flat. A capitalisation rate of 6%, and a deferment rate of 5%. Mr Jones used the 24th November 2021 as the valuation date (the date of the report) However, he correctly stated in his report the actual valuation date would be the date of Claim being the 30th December 2021. In view of the fact there is approximately one months differential this Tribunal accepts the figures in the report. This provided an unexpired term of 90.1 years for each flat.

16. At that date, the lease had an unexpired term of 90.1 years. The Tribunal agrees, in view of the fact, the lease has an unexpired term of greater than 80 years marriage value is deemed not to exist.
17. Having carefully scrutinised the valuation report, including the comparable evidence, the Tribunal agrees the capitalisation and deferment rates and long lease value.
18. The Tribunal examined the six comparables provided in the report, Each of the properties are located in close proximity to the subject flat. Each comparable is a converted one bedroom flat in various condition. It would good practice on behalf of the Valuer to prepare a schedule which makes valuation adjustments in order to provide a precise methodology. Such adjustments would take into account location, internal specification, onsite parking, private garden, floor area and indexation for time lapse in comparison (already undertaken) with the valuation date. No such schedule was provided by Mr Jones and the Tribunal is somewhat baffled how the two freehold valuation figures were determined., However, despite these minor misgivings, based upon the comparable evidence the Tribunal agrees with the two freehold value of £360,000 and £325,000.
19. There was no evidence of any ground rent or service charge arrears for the Flats. In the absence of such evidence, the Tribunal determines that no additional sums are payable under the 1993 Act. It follows that the appropriate sum to be paid into Court is **£12,690** in accordance with the valuation report.

Terms of the Transfer

20. We have considered the Transfer of the whole registered title incorporating the TR1. We are satisfied that the terms should be approved as drafted.

Name: Mr D Jagger MRICS

Date: 7th December 2022

RIGHTS OF APPEAL

1. If a party wishes to appeal 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.
2. 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.
3. 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.
4. 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

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Leasehold Reform, Housing and Urban Development Act 1993 (as amended)

Section 50 (1)-(3)

- (1) Where –
 - (a) a qualifying tenant of a flat desires to make a claim to exercise the right to acquire a new lease of his flat, but
 - (b) the landlord cannot be found or his identity cannot be ascertainedthe court may, on the application of the tenant, make a vesting order under this subsection.

- (2) Where –
 - (a) a qualifying tenant of a flat desires to make such a claim as is mentioned in subsection (1), and
 - (b) paragraph (b) of that subsection does not apply, but
 - (c) a copy of a notice of that claim cannot be given in accordance with Part 1 of Schedule II to any person to whom it would otherwise be required to be so given because that person cannot be found or his identity cannot be ascertained,the court may on an application of the tenant, make an order dispensing with the need to give a copy of such a notice that that person.

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

(a) that on the date of the making of the application the tenant had the right to acquire a new lease of his flat; and

(b) that on that date he would not have been precluded by any provision of this Chapter from giving a valid notice under section 42 with respect to his flat.

Section 51

(1) A vesting order under section 50(1) is an order providing for the surrender of the tenant's lease of his flat and for the granting to him of a new lease of it on such terms as may be determined by the appropriate tribunal to be appropriate with a view to the lease being granted to him in like manner (so far as the circumstances permit) as if he had, as the date of his application, given notice under section 42 of his claim to exercise the right to acquire a new lease of his flat.

- (2) If the appropriate tribunal so determines in the case of a vesting order under section 50(1), the order shall have effect in relation to property which is less extensive than that specified in the application on which the order was made.

- (3) Where any lease is to be granted to a tenant by virtue of a vesting order under section 50(1), then on his paying into court the appropriate sum there shall be executed by such person as the court may designate a lease 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 section 56(1) and section 57 (as that section applies, in accordance with subsections (7) and (8) below; and that lease shall be effective to vest in the person to whom it is granted the property expressed to be demised by it, subject to and in accordance with the terms of the lease.

- (4) In connection with the determination by the appropriate tribunal of any question as to which the property to be demised by any such lease, or as to the rights with or subject to which it is to be demised, it shall be assumed (unless the contrary is shown) that the landlord has no interest in property other than the property to be demised and, for the purpose of excepting them from the lease, any minerals underlying that property.

- (5) The appropriate sum to be paid into court in accordance with subsection (3) is the aggregate of –
 - (a) such amount as may be determined by the appropriate tribunal to be the premium which is payable under Schedule 13 in respect of the grant of the new lease;

 - (b) such other amount or amounts (if any) as may be determined by such a tribunal to be payable by virtue of that Schedule in connection with the grant of that lease; and

 - (c) any amounts or estimated amounts determined by such a tribunal as being, as the time of execution of that lease, due to the landlord from the tenant (whether due under or in respect of the tenant's lease of his flat or under or in respect of any agreement collateral thereto).

- (6) Where any lease is granted to a person in accordance with this section, the payment into court or the appropriate sum shall be taken to have satisfied any claims against the tenant, his personal representatives or assigns in respect of the premium and any other amounts payable as mentioned in subsection (5)(a) and (b).

- (7) Subject to subsection (8), the following provisions, namely – (a) sections 57 to 59, and

(b) section 61 and Schedule 14,

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shall, so far as capable of applying to a lease granted in accordance with this section, apply to such lease as they apply to a lease granted under section 56, and subsections (6) and (7) of that section shall apply in relation to a lease granted in accordance with this section as they apply in relation to a lease granted under that section.

(8) In its application to a lease granted in accordance with this section

- (a) section 57 shall have effect as if –
 - (i) any reference to the relevant date were a reference to the date of the application under section 50(1) in pursuance of which the vesting order under that provision was made, and
 - (ii) in subsection (5) the reference to section 56(3)(a) were a reference to subsection (5)(c) above; and

- (b) section 58 shall have effect as if –
 - (i) in subsection (3) the second reference to the landlord were a reference to the person designated under subsection (3) above, and
 - (ii) subsections (6)(a) and (7) were omitted.

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