



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

**Case reference** : **LON/00AY/LRM/2023/0044**

**Property** : **Helston House, 93 Kennington Lane, London, SE11 4HQ**

**Applicant** : **Helston House RTM Company Ltd**

**Representative** : **The Leasehold Advice Centre (Mr Philip Bazin)**

**Respondents** : (1) **Chadd Properties Ltd**  
(2) **Assethold Ltd**

**Representative** : (1) **Chadd Properties Ltd stated by email that they had no interest in the proceedings**  
(2) **Assethold Ltd – Mr Ronni Gurvits**

**Type of application** : **Application in relation to the denial of the Right to Manage under s.84(3) of the Commonhold and Leasehold Reform Act 2002**

**Tribunal members** : **Judge Rosanna Foskett, Mrs Alison Flynn**

**Date of Decision** : **26 March 2024 (on the papers)**

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**DECISION**

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**DECISION**

1. The Tribunal determines that:
  - a. the Applicant company served a valid notice signed on 14 August 2023 to acquire the right to manage the above-named property under section 84(3) of the Commonhold and Leasehold Reform Act 2002 (“the Act”); and

- b. the Second Respondent had no ability to serve a counter-notice when it purported to do so on or around 29 September 2023.

## **BACKGROUND**

2. The Tribunal received an application under section 84(3) of the Act dated 1 November 2023 for a decision that, on the relevant date, the applicant RTM company was entitled to acquire the Right to Manage premises known as Helston House, 93 Kennington Lane, London SE11 4HQ (“the premises”).
3. By a claim notice signed on 14 August 2023, the Applicant gave notice that it intended to acquire the Right to Manage the premises on 31 December 2023. The Applicant provided a copy to all the qualifying leaseholders at the same time.
4. The First Respondent has never served any counter notice and has indicated by a telephone call to the Applicant’s representative that it does not wish to be involved in the proceedings.
5. By a purported counter notice dated 28 September 2023, the Second Respondent disputes the claim alleging that the Applicant has failed to establish that the premises are ones to which section 72(1) of the Act applies.
6. The Tribunal gave directions on 8 February 2024 for the determination of the question of whether the Applicant has served a notice valid to exercise the right-to-manage. The Tribunal directed that that question be determined in the basis that the following 2 factual circumstances existed:
  - a. The notice signed on 14 August 2023 by the Applicant was not served on the Second Respondent but it came to know of it and served a timeous counternotice; and
  - b. The First Respondent was at all material times registered at HM Land Registry as the proprietor of the premises, but that the Second Respondent had completed the purchase of the freehold from the First Respondent at the time the Applicant served its notice but the transfer had not been registered at HM Land Registry.
7. In fact:
  - a. the Applicant has provided evidence (which the Tribunal accepts in light of the documents in the hearing bundle) that the notice signed on 14 August 2023 **was** served on the Second Respondent by first-class post at 3 postal addresses and by email to two email addresses, that of Mr Gurvits of the Second Respondent and that of a solicitor at Scott Cohen Solicitors, who acted for the Second Respondent;
  - b. Scott Cohen Solicitors email the Applicant’s representative on 30 August 2023 (page 64 of the bundle) stating that the Second Respondent had instructed them and that it had “*received a copy of a claim notice dated 14<sup>th</sup> August 2023*” in relation to the premises. The email requested certain documents which were provided by the Applicant’s representative by email on 5 September 2023 (page 65 of the bundle).

8. Accordingly, the Tribunal has determined the question on the basis that:
  - a. The notice signed on 14 August 2023 was served on the Second Respondent (as well as the First Respondent<sup>1</sup>) on 16 August 2023; and
  - b. The First Respondent was at all material times registered at HM Land Registry as the proprietor of the premises, but that the Second Respondent has since acquired the freehold.
9. As neither party requested an oral hearing the application was determined on the papers provided in the form of an e-bundle of 138 pages.

### **REASONS FOR DECISION**

10. The Tribunal is satisfied that the Applicant has validly served the notice of claim on the First and Second Respondents on 16 August 2023. Nevertheless, service was in fact only required on the First Respondent because it was the registered proprietor of the freehold at the relevant time.
11. On 21 November 2023, the Applicant's representative confirmed by email to the Tribunal that the First Respondent was still registered as the proprietor of the freehold of the premises and that there were no pending applications at HM Land Registry.
12. As section 27(1) of the Land Registration Act 2002 specifies, the disposition of a registered estate or charge does not operate in law until the relevant registration requirements are met.
13. Therefore:
  - a. the notice of claim served on the then registered owner of the freehold, i.e. the First Respondent, was effective and valid: Malferna House RTM Company Limited v Assethold Limited (LON/00AM/LRM/2020/0012);
  - b. the purported counter-notice served by the Second Respondent was ineffective and invalid.

**Name: Judge Rosanna Foskett, Mrs  
Alison Flynn**

**Date: 26 March 2024**

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<sup>1</sup> The First Respondent was served by first class post at 2 addresses, with a certificate of posting dated 16 August 2023 being included in the bundle.

## **RIGHTS OF APPEAL**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).