Price Cesarini and Cadogan Estates Limited – case summary

A recent decision handed down by Central London County Court in the case of *Price & Cesarini v Cadogan Estates Limited* provided clarification on how the statutory timetable for completion of lease extension claims under the Leasehold Reform, Housing and Urban Development Act 1993 (**the Act)** will be dealt with**.**

The Act provides for 'qualifying tenants' to serve notice on their landlord seeking a new lease for an additional 90 years and at a peppercorn rent. The landlord is compensated with a premium for the new lease calculated in accordance with the Act. Given the compulsory nature of the transaction, there is a strict procedure and timescales that must be complied with (see our guide to lease extensions).

In terms of the legal process, following service of the relevant statutory notices and the lease terms and premium being agreed or determined by the Tribunal, there is a final stage of the statutory timetable which applies. This initially provides for a two month period in which to complete the new lease. If the lease is not completed within that time period, there is a subsequent two month period in which either party can make an application to Court for the performance or discharge of the obligations arising out of the lease extension claim (section 48(3) of the Act). If either the lease has not completed or no Court application made by the end of the second two month period, the lease extension claim will be deemed withdrawn and the tenant will be prevented from making a further claim for a period of 12 months.

The facts

The claimants, Mr Price and Lady Cesarini are leaseholders of a flat on Cadogan Gardens in Chelsea, London and had served a s.42 notice under the Act claiming a new lease. The lease terms and premium were duly settled

on 23 July 2021.

As completion had not taken place within the first two month period, the claimants issued a claim in the County Court pursuant to s.48(3) prior to the expiry of the second two month period. Rather than seeking performance (i.e. completion of the new lease), the claimants sought an order postponing completion to give them time to raise finance, to fund the premium agreed between the parties.

The landlord opposed the claimants' claim and sought an order that the lease extension claim be deemed withdrawn for failure to complete within the first two month period.

The judge's decision

The judge decided in favour of the landlord and the lease extension claim was deemed withdrawn on 23 September 2021 being the end of the first 2 month period. The reasons for the decision were as follows:

1. The failure to complete was solely down to the claimants. The landlord was ready, willing and able to complete.
2. There was a very considerable passage of time from the terms of acquisition being agreed in July 2021 to the date of completion proposed by the claimants in their claim.
3. Given the time that had passed since the date of the deemed withdrawal of the s.42 Notice, an order to this effect did not prevent the claimants from serving a fresh s.42 notice as more than 12 months had passed since the deemed withdrawal.

In summary the judge considered, on the facts, that the landlord had been in a position to complete, whilst the tenants had not. He noted that the tenants had caused the completion date to slip well beyond that provided for by the statutory timetable, but considered it important that the they were able to submit a fresh s.42 immediately, meaning they could alleviate the imminent risk of losing their family home.

The impact of the decision

This case serves as a warning to those leaseholders that issue proceedings under s.48 of the Act simply by way of a protective measure to keep their lease extension claim alive. Section 48 is not a tool to give leaseholders as much time as they desire prior to completion.

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