



"Celebrating 25 years"

CASES

Mortgages - case

[Barclays Bank UK PLC v Terry & Anor \[2023\] EWHC 2726 \(Ch\) \(23 October 2023\)](#) (BAILII link). An application for summary judgment. Barclays arranged discharge at the Land Registry of a number of mortgages it thought were paid off, but some weren't. It therefore wanted to reinstate the registrations for those. Para 22 on – law on mistake. Held could rescind for mistake in principle and definitely for these borrowers but not necessarily for the other borrowers. Para 31 on – altering the Land Register. Yes for these borrowers but not necessarily for the other borrowers.

Stamp Duty Land Tax (SDLT) – case

[Ralph v Revenue And Customs \(Stamp duty land tax - purchase of house and separate building - multiple dwellings relief\), Re \[2023\] EWFC 192 \(11 October 2023\)](#) (BAILII link). Whether a property comprised one or two dwellings which depended on the status of the annex. Para 45 on – the relevant parts of the Finance Act 2003.

a) whether "suitable for use as a single dwelling" Para 55 on - the parties arguments. Para 75 on – discussion referring to *Fiander and Brower v HMRC [2021] UKUT 156 (TCC)*. Worked through various factors for and against especially that the kitchen facilities were only a convection microwave for cooking and washing up in a hand basin in the bathroom.
b) whether "in the process of being...adapted for [use as a single dwelling]" within paragraph 7(2)(b) as items bought and workmen arranged for alterations to be carried out shortly after completion, Para 91 on - the parties arguments. Para 100 on – discussion. Held No as to qualify physical works have to been started.

Breach of lease covenants – resemblance to Airbnb use - case

[Britannia Mills Management Ltd v Young \[2022\] EW Misc 12 \(CC\) \(10 June 2022\)](#) (BAILII link). Whether a tenant had breached covenants in a lease by use of the homeexchange.com website under which a stay for visitors in the flat was swapped for a stay in the visitors' property and the couchsurfing.com website under which visitors could stay free sharing occupation. Para 65 on – relevant case law. Para 85 on – discusses whether breaches of the lease covenants in the light of the precise wording of such. "no part of the property is to be used for any purpose other than as or incidental to a private residential dwelling in the occupation of one household only ..." - use Airbnb would be but not the uses in this case. "no trade, profession, or employment shall be carried on at the Property" – following *Triplerose Ltd v Beattie [2020] UKUT 180 (LC)* no breach. No "... acts which may cause damage to or be a nuisance annoyance disturbance or inconvenience" – no breach. Effect on insurance – breach. "Not to transfer or otherwise part with possession or occupation of part only of the Property; (b) Not to underlet or otherwise part with the whole of the Property or grant a licence in respect thereof" – no breach couch surfing – breach home exchange.

Land purchased on what charitable trusts - case

[Mohammed & Ors v Daji & Ors \[2023\] EWHC 2761 \(Ch\) \(03 November 2023\)](#) (BAILII link). About land acquired for a mosque and on what charitable trusts it was acquired. Para 24 on – the law about the trusts applicable when there is an appeal for funds for a charitable purpose.

Brief Comment - Falcon Chambers [The schism in Tablighi Jamaat and the ownership of the Abbey Mills Mosque: Mohammed & Ors v. Daji & Ors \[2023\] EWHC 2761 \(Ch\) | Falcon Chambers \(falcon-chambers.com\)](#)

STATUTES

[Levelling-up and Regeneration Act 2023](#) 2023 c. 55. A number of matters

Comments in Lexology

[The Levelling-up and Regeneration Act 2023 will introduce a change to the definition of "qualifying lease" in the Building Safety Act 2022](#) From Devonshires.

[Royal Assent given to the Levelling Up and Regeneration Act](#) From Taylor Wessing. Briefly on high street rental auctions.

[New powers for local authorities to rent out vacant high street premises](#) From Dentons. Detailed consideration.

[Impact of new council powers to let empty high street premises through compulsory rent auctions](#) From Addleshaw Goddard LLP.

STATUTORY INSTRUMENTS

[The Council Tax \(Chargeable Dwellings and Liability for Owners\) \(Amendment\) \(England\) Regulations 2023](#) 2023 No. 1175. "These Regulations amend the Council Tax (Chargeable Dwellings) Order 1992 ([S.I. 1992/549](#)) so that a house in multiple occupation is always treated as a single dwelling for the purposes of council tax in England.

These Regulations also amend the Council Tax (Liability for Owners) Regulations 1992 ([S.I. 1992/551](#)) to expand the prescribed class of houses in multiple occupation for which the owner, as opposed to the resident, is responsible for paying council tax. This will align the prescribed class with the 1992 Order."

Department for Levelling Up, Housing and Communities [Council Tax information letter 3/2023: Changes to regulations for Houses in Multiple Occupation \(HMOs\)](#)

ARTICLES

Articles in Lexology

[Modifying restrictive covenants: what are the lessons learnt from Great Jackson St Estates v Manchester City Council \[2023\]?](#) From Clyde & Co LLP. Discussion of [Great Jackson Street Estates Ltd v Manchester City Council \(Restrictive Covenants - Modification - Obsolescence\) \[2023\] UKUT 189 \(LC\) \(08 August 2023\)](#) (BAILII link) where the Council both the landlord and the planning authority.

Article - Selborne Chambers

But the purchase price has been apportioned: The impact of price apportionment in business purchase agreements on potential damages claims – Sarah Walker 2 November 2023. [MW article 03/08/2023 \(selbornechambers.co.uk\)](#)

The Times 'Bricks & Mortar' 13.10.2023

'Ask the Expert Q&A' on [Must we pay to use a different estate agent to sell our house?](#)

OTHER

Competition and Markets Authority

[Private management of public amenities on housing estates working paper \(PDF, 825KB\)](#) (3.11.23). Discusses issues regarding communal facilities on new developments such as roads, sewers, etc.

House of Commons Library

[Planning for solar farms - House of Commons Library \(parliament.uk\)](#) 8.11.2023

From the Land Registry

Land Registry Practice Guides - changes

[Notices, restrictions and protection of third-party interests \(PG19\)](#) 6 November 2023

From HMRC

[Using the Non-resident Landlords Scheme if you're a letting agent or tenant](#) Updated: 10 November 2023. "A link to guidance about how to send a quarterly return for your non-resident landlord tax has been added."