

IN THE HIGH COURT OF JUSTICE AT LEEDS
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY TRUSTS AND PROBATE (ChD)

Leeds Combined Court Centre
The Courthouse
1 Oxford Row
Leeds
LS1 3BG

BEFORE:

HIS HONOUR JUDGE DAVIS-WHITE KC

BETWEEN:

PROCTER

CLAIMANT

- and -

PROCTER AND OTHERS

DEFENDANTS

Legal Representation

Mr Bruce Walker (Counsel) on behalf of the Claimant
Mr Edward Peters (Counsel) on behalf of the First and Second Defendants
Mr Raj Sahonte (Counsel) on behalf of the Fourth Defendant

Other Parties Present and their status

None known

Judgment

Judgment date: 7 September 2023
Transcribed from 12:10:20 until 12:18:13

Reporting Restrictions Applied: No

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His Honour Judge Davis-White:

1. I have before me an application originally dated 1 April 2022, but subsequently amended on 23 August 2023 by the Fourth Defendant, Womble Bond Dickinson Trust Corporation Limited, seeking the removal and appointment of trustees in relation to freehold title to various parcels of land to which land the Fourth Defendant is either solely or, with others, beneficially entitled.
2. In most cases, although not all of them, the freehold title is vested in the First Defendant as surviving personal representative in relation to an earlier deceased family member. I think his grandfather. There are in fact no relevant will trusts applicable in the sense that under the relevant wills the estate has been administered. The current position, in broad terms, is that the Fourth Defendant, as trustee of one or more of three family trusts, as I said, holds either the entire beneficial interest in the land in question or shares it with the Claimant, First Defendant and Second Defendant. In some cases the Fourth Defendant holds the land as trustee for different trusts.
3. The background to the matter is set out in a number of judgments I have given in this case. The first judgment was originally dealing with a case brought by the Claimant seeking the removal of the First and Second Defendants as trustees of the three family trusts that I have mentioned. As I explained in my judgment, they were eventually removed and Womble Bond Dickinson Trust Corporation was appointed as corporate trustee of the relevant family trusts.
4. In this particular case Womble Bond Dickinson Trust Corporation, now as trustee, seeks effectively to get in legal title or at least to safeguard legal title. Originally, it, as the Fourth Defendant, had applied for the vesting of legal title to the land in the next tier down of beneficial owners, be it the Fourth Defendant alone as trustee, or the Fourth Defendant together with other beneficial owners of the land, that is, in some cases, together with the Claimant, First Defendant and Second Defendant.
5. As I indicated at the last hearing on this matter, that course was in my view not appropriate. This is because I had already decided that it was not appropriate to have any of the relevant individuals, that is the Claimant, First and Second Defendant, as trustees of the three relevant family trusts that I was dealing with and that an independent party should be appointed as trustee, in the person of the Fourth Defendant. It made no sense to go against that general conclusion either by bringing about a situation where the three siblings were legal owners and trustees of any relevant land, with the potential for conflict or deadlock between them, or to leave the situation where one sibling was a legal owner but not the other siblings.
6. That brought about the proposed amendments in August so that the order now sought is to vest legal title to the relevant portions of land in the Fourth Defendant alone (and not in the names of any of the Siblings).

7. I have decided that I should make the orders. I have been referred back to *Letterstedt v Broers* [1884] UKPC 1 and it seems to me that leaving aside questions of conflict between the trustees it is highly undesirable that the First Defendant should remain sole legal trustee. Not least given circumstances in which, as I have held, the siblings appear prepared to take advantage of any legal position they can. In particular, there has been a concern about an Agricultural Holdings Act arbitration commenced by the Second Defendant in which the First Defendant, as holder of legal title to the freehold, was apparently going to stand by and do nothing and not protect the interests of beneficiaries of the land other than himself and the Second Defendant, be such interests direct or indirect. That may be a controversial way of putting it, but, as I have said, that was the concern and it seemed to me that the concern was entirely justified.
8. As I have said, as regards other portions of land where relevant legal title is in issue, it seems to me undesirable that there should be a situation where, for example, the Claimant and First Defendant are legal owners. As regards the Claimant there has also been, as explained in a previous judgment of mine, an issue with her behaviour as legal owner of a partnership lease in circumstances where she sought to better her personal interests by serving notices to quit with regard to the partnership lease, which notices, if valid, would have damaged the partnership for whom she held the lease as one of the trustees. This is a concrete example of conduct demonstrating the concern that exists at least at the moment.
9. As regards certain parcels of land, vesting orders are not being sought at this time. There will be liberty to apply in relation thereto. So far as Mr Knowles, the Third Defendant, is concerned, this is in his capacity as personal representative. Obviously there is a question as to whether the administration of the relevant estates of which he is a personal representative have been completed and, if they have been, he may view a Vesting Order or a vesting instrument as appropriate.
10. It may be that as regards those portions of land the matter has to come back before the Court but if, as I have expressed it, the relevant current holders of legal title to any portion of land are agreed that it should be vested in other owners such as D4 then it seems to me to be hoped that the Court should not be troubled and it should be possible to appoint a new trustee(s) and/or to convey the land appropriately.
11. As regards the concerns I have about the existing position regarding holders or holder of legal title I have mentioned a few points. There are other concerns as well such as whether rents have been collected in and/or rents have been increased and/or what has happened to the rents, all of which without coming to any final view as to what the actual position is, justify the appointment of an independent trustee to investigate the position and regularise it if and insofar it is needed.
12. For those reasons I am content to make the order removing the trustees of the legal title and effectively appointing new trustees and making an appropriate Vesting Order in line with the relevant Schedule produced to me.

(proceedings continue)

(court hearing ended abruptly after main proceedings due to an urgent electrical issue in which all parties had to evacuate the building – no further judgment delivered on 07.09.23)

This Transcript has been approved by the Judge.

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

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