

[2018] UKFTT 0722 (PC)

PROPERTY CHAMBER
FIRST – TIER TRIBUNAL
LAND REGISTRATION DIVISION

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY
LAND REGISTRATION ACT 2002

2017/0645

BETWEEN

ADRIAN WILLIAM HUGHES

APPLICANT

and

(1) DEAN FRANCIS TURNER

(2) NEIL JOHN HODGSON

RESPONDENTS

Property Address: 85 Rawlinson Street, Barrow-in-Furness LA14 2DT

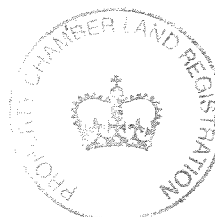
Title Number: CU231929

**Before: Mr Simon Brilliant sitting as Judge of the Property Chamber of the First-tier
Tribunal**

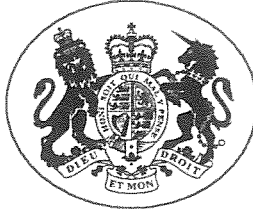
The Chief Land Registrar is directed to cancel the Applicant's original application dated 24
November 2016.

Dated 11 October 2018

Simon Brilliant



**BY ORDER OF THE JUDGE OF THE PROPERTY CHAMBER OF THE FIRST –
TIER TRIBUNAL**



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Title Number: CU231929

**Before: Mr Simon Brilliant sitting as Judge of the Property Chamber of the First-tier
Tribunal**

Sitting at: Barrow Law Courts, Abbey Road, Barrow-in-Furness LA14 5QX.

On: 2 October 2018

Site view: 1 October 2018

there was no sign of anyone having lived there for many years.

5. The respondents also put in a written witness statement from Mr Stuart Williams. He is a general builder and he worked at the property from August 2015 until January 2017. He knows Mr Hughes and says that he never saw him there.
6. I conducted a site view of the house on 1 October 2018. Neither party attended, but I was shown round by Mrs O'Halloran. She and her husband had gone into possession of the house pursuant to an assured shorthold tenancy dated 18 August 2017.
7. The house is a two-storey terraced house with a slate roof and pebble dash exterior. All the doors and windows are new. On the ground floor there is a freshly painted front room and sitting room and a recently installed kitchen. There is also a new bathroom. There is a small backyard which leads on to a paved alleyway to the rear.
8. On the first floor there are three freshly decorated bedrooms. Mrs O'Halloran told me that the house appeared to have been renovated shortly before her tenancy began, because there was some builders' dust around the house. The house has been renovated to a good standard.
9. In 2014, Mr Hughes made an application in form ADV1 to be registered as the proprietor of the house on the basis that he had acquired title to it by adverse possession. The then registered proprietor, Mr Lowther, objected to the application in form NAP dated 28 May 2014. In his form ADV1 Mr Hughes had failed to indicate in panel 11 which of the conditions in paragraph 5 of schedule 6 to the Land Registration Act 2002 ("the Act") he intended to rely on. Such an indication is required by rule 118 of the Land Registration Rules 2003.
10. Following Mr Lowther's objection, Land Registry rejected Mr Hughes' application on 3 June 2014 in accordance with paragraph 7 of Land Registry Practice Guide 4.
11. Neither Mr Lowther nor the respondents commenced proceedings for possession of the house against Mr Hughes. Accordingly, Mr Hughes was entitled two years after the

- rejection to make a further application to be registered as the proprietor of the house pursuant to paragraph 6(1) of schedule 6 to the Act. This time there was no need for Mr Hughes to show he could satisfy any of the conditions set out in paragraph 5 of schedule 6 to the Act.
12. On 24 November 2016, Mr Hughes made such a further application to be registered as the proprietor of the house (“the original application”). In order to succeed on the basis of the original application Mr Hughes needs to show that he was in adverse possession of the house between 3 June 2014 and 2 June 2016.
 13. On 9 May 2017, the respondents objected to the original application on the grounds that they had been in possession of the house ever since purchasing it on 23 July 2015.
 14. On 6 July 2017, the dispute was referred to the tribunal under the provisions of 73(7) of the Act.
 15. On 21 May 2015, a limited company, Barrow Head Estats Ltd (“BHEL”), was incorporated. Mr Hughes was the sole director and shareholder. BHEL’s registered office was at the house. Mr Hughes, who is a builder, told me that soon after this date he left to work in Spain.
 16. BHEL took out a contract with e.on for the supply of electricity to the house. There are in the trial bundle bills dated 19 May 2015, 21 June 2015, 21 July 2015, 18 August 2015, 11 October 2015, 22 November 2015, 27 December 2015, 26 January 2016, 23 February 2016, 25 October 2016 and 10 January 2017. Prior to October 2016, the usage was minimal.
 17. On 16 August 2016, the Registrar of Companies gave notice to BHEL under section 1000(3) Companies Act 2006 that, unless cause to the contrary was shown, BHEL would be struck off and the company dissolved. This provision applies when a company is not carrying on business or in operation. BHEL was accordingly struck off and dissolved on 1 November 2016.

18. On 19 December 2016, a Land Registry surveyor inspected the house. He said that Google Maps in 2009 and 2015 show the house to be boarded up and apparently derelict. The house appeared to be occupied but not lived in. It was in the process of being renovated.
19. In his evidence, Mr Hughes accepted that he had not been back to the house since July 2015. What he relied upon was the fact that BHEL had its registered office at the house.
20. There is no suggestion that BHEL had any property in the house. It appears that for much of the time the company was not carrying on a business.
21. In my judgment, the fact that BHEL had its registered office at the house did not mean that either it or Mr Hughes was in possession of the house. Indeed, I am satisfied that the respondents were in possession of the house from August 2015 until they let it out to Mr and Mrs O'Halloran on 18 August 2017, when Mr Hughes was still in Spain.
22. Accordingly, I find that Mr Hughes was not in possession of the house during the two year period from 3 June 2014 until 2 June 2016. The original application fails and I must direct Land Registry to cancel it.
23. The respondents are entitled to their costs. They must within 14 days of receipt of this decision provide to Mr Hughes and the tribunal a schedule of costs in form N260. Mr Hughes must within 14 days of receipt of the schedule of costs provide to the respondents and to the tribunal any representations about or objections to the schedule of costs.

Dated this 11th day of October 2018

Senior Benchet

BY ORDER OF THE JUDGE OF THE PROPERTY CHAMBER OF THE FIRST-TIER TRIBUNAL

