

Y TRIBIWNLYS EIDDO PRESWL
RESIDENTIAL PROPERTY TRIBUNAL
LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0044/12/20

In the matter of 67 Penylan Road, Cardiff, CF23 5HZ

And in the matter of an Application under Section 24(1) of the Leasehold Reform, Housing and Urban Development Act 1993

And in the matter of an application for permission to appeal to the Upper Tribunal.

Applicant: 67 Penylan Road (Freehold) Limited

Respondent: Residential freeholds Limited

Tribunal: Mr. A. Grant (Legal chairperson)
Mr. R Baynham (Surveyor member)
Dr. A. Ash (Lay member)

Decision

The application for permission to appeal is refused

Reasons

1. By way of a letter dated the 19th July 2021, the Respondent sought permission to appeal the tribunal's decision dated the 21st June 2021 ("the Decision")
2. The letter was accompanied by grounds of appeal which set out the basis of the Respondent's request for permission to appeal namely: (1) that the tribunal was wrong to determine that the breach of the lease was remediable, (2) that the tribunal was wrong to determine that the section 146 notice was invalid and (3) that the tribunal

was wrong to determine that forfeiture of the lease was improbable and that the tribunal was wrong to determine that there was no hope value in the property.

3. Permission to appeal will be granted if it appears to the Tribunal that there are reasonable grounds for concluding that the LVT may have been wrong for one of the following reasons set out in the Lands Chamber Upper Tribunal Practice direction dated 2010 (paragraph 4.2);
 - That the Decision shows that the LVT wrongly interpreted or wrongly applied the relevant law.
 - That the Decision shows that the LVT wrongly applied or misinterpreted or disregarded a relevant principle of valuation or other professional practice.
 - That the LVT took account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or there was a substantial procedural defect or
 - The point or points at issue is or are of potentially wide implication
4. The Respondent seeks permission to appeal on three separate grounds. We shall address each ground in turn.

A. The tribunal was wrong to determine that the breach of the lease was remediable.

5. In its application seeking permission to appeal the Decision on this point, the Respondent seeks to repeat those submissions which it previously made in writing. It has not provided anything new. The tribunal took full account of those submissions when reaching its decision and the issue was addressed at paragraph 16 of the Decision.
6. The application does not show that the tribunal failed to properly address those matters that it was required to address, and the current application does not identify any matters appearing in paragraph 3 above that would cause the tribunal to grant permission to appeal on this issue.
7. Accordingly, permission to appeal on this ground is refused.

B. The learned tribunal was wrong to determine that the section 146 notice was defective.

8. In its application seeking permission to appeal on this ground, the Respondent once again does not set out any basis why the tribunals decision was wrong by reference to the matters set out at paragraph 3 above. The Respondent may not agree with the tribunal's findings but that is not the basis for seeking permission to appeal the Decision.

9. The issue of the section 146 notice was properly addressed at paragraph 17 of the Decision and the tribunal, by reference to those matters set out at paragraph 3 above, cannot see any basis for granting permission to appeal on this ground.

10. Accordingly, permission to appeal on this ground is refused.

C. The tribunal was wrong to find that the possibility of obtaining forfeiture was improbable and that there was no hope value attributable to the purchase price of the Property.

11. The grounds of appeal lodged by the Respondent give no basis for permission to be granted by reference to the matters set out in paragraph 3 above.

12. The tribunal was entitled to find on the basis of the evidence provided and the submissions made by the parties that, on a balance of probabilities, the Applicant would likely be granted relief from forfeiture and, on that basis, to form the view that there was no hope value to be attributed to the property.

13. The tribunal set out its position clearly at paragraph 19 of its decision and nothing in the grounds of appeal give the tribunal cause to doubt its conclusion in that regard.

14. Accordingly, permission to appeal on this ground is refused.

15. Having regard to the matters set out above, the tribunal determines that the application has no real prospect of success, and the application is refused.

Dated the 28th day of July 2021

Andrew Grant
Chairman.