

LANDS TRIBUNAL FOR NORTHERN IRELAND
LAND CLAUSES CONSOLIDATION ACT 1845
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972

IN THE MATTER OF A REFERENCE

R/18/2016

BETWEEN

NORTHERN IRELAND HOUSING EXECUTIVE - APPLICANT

AND

UCB HOME LOANS CORPORATION LIMITED – FIRST RESPONDENT

PERSONAL REPRESENTATIVES OF

RONALD T ROBINSON (DECEASED) – SECOND RESPONDENT

Re: 23 Monarch Street, Belfast

Lands Tribunal - Henry M Spence MRICS Dip.Rating IRRV (Hons)

Background

1. The property at 23 Monarch Street, Belfast (“the reference property”) was owned by Ronald T Robinson (“the second respondent”).
2. The title to the reference property was at the relevant date of vesting comprised in Land Registry folio number AN133315L County Antrim and held under Indenture of Lease made 12th January 1997 between Gray and Lindsay of the one part and Walker of the other part, for a term of 10,000 years.
3. The reference property is subject to a legal mortgage/charge in favour of UBC Home Loans Corporation Limited (“the first respondent”). This charge was registered as a burden on the folio on 1st November 2007. The Northern Ireland Housing Executive (“the applicant”) has confirmed that the outstanding balance on the mortgage account exceeds the agreed figure of compensation.

4. The second respondent passed away on 5th February 2013 and prior to his death was adjudicated bankrupt on 19th January 2012.
5. The Vesting Order was made on 9th February 2010 and came into operation on 19th April 2010 (“the valuation date”) when the reference property was acquired by the applicant.

Procedural Matters

6. At hearing the applicant was represented by Mr Marc Kelly of Hool Law, Solicitors. Prior to hearing the Tribunal had received a legal submission from Mr Iain McGonigle also of Hool Law and the Tribunal is grateful to him for his detailed and helpful submission. Ms Jill Annett of John McKee, Solicitors appeared on behalf of the first respondent. The second respondent did not take part in the proceedings.

Position of the Applicant

7. In his submission Mr McGonigle respectfully invited the Tribunal to accept that by virtue of section 110 of the Land Clauses Consolidation Act 1845 it was entitled to exercise its statutory authority to award compensation monies to the first respondent as mortgagee. Accordingly he submitted that the Tribunal should order that the agreed compensation monies of £79,000 should be paid directly to the first respondent in full and final discharge of the obligations of the applicant.

The Law

8. The existence of a charge in favour of the first respondent, with the sums secured by the charge exceeding the market value of the reference property, engages section 110 of the Land Clauses Consolidation Act 1845 which provides:-

“Sum to be paid when mortgage exceeds the value of the lands

110. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement, between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part; and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so

agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee, in satisfaction of his mortgage debt, so far as the same will extend; and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.”

9. Paragraph 14 of Schedule 6 of the Local Government Act (Northern Ireland) 1972 provides:

“14(1) The council, on paying to any person any compensation (whether the amount has been settled by agreement or determined by the Lands Tribunal), shall obtain from that person a receipt in the prescribed form, which shall be prepared by, and executed at the cost of, the council, and the receipt shall operate to release the compensation fund from all claims by the person giving it and all parties claiming through or under him.”

10. Paragraph 17 of Schedule 6 of the same Act where relevant provides:

“17(1) Where the amount of compensation has been determined but for some reason it is not possible for the council to obtain a good discharge therefor,—

(a) ...

(b) if the total amount of the compensation exceeds £1,000, the amount payable by the council shall be paid, applied and dealt with in accordance with the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, and those provisions shall have effect accordingly.

(2) Money paid into the county court or, as the case may be, the High Court under sub-paragraph (1) shall, subject to county court rules or rules of court, be dealt with according to the orders of the court.

(3) The payment of the compensation in the manner provided by sub-paragraph (1) shall operate to discharge the compensation fund from all claims and interests in respect of which the compensation is payable.”

Conclusion

11. The Tribunal is satisfied that section 110 of the Land Clauses Consolidation Act 1845 gives the Tribunal the statutory authority to award the compensation monies to the first respondent as mortgagee. The Tribunal therefore orders the agreed compensation monies of £79,000 to be paid to the first respondent.

ORDERS ACCORDINGLY

11th November 2016

**Mr Henry M Spence MRICS Dip.Rating IRRV (Hons)
LANDS TRIBUNAL FOR NORTHERN IRELAND**

Appearances:

Applicant – Marc Kelly of Hool Law, Solicitors.

First Respondent – Jill Annett of John McKee, Solicitors.