

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL & COMPENSATION ACT (NORTHERN IRELAND) 1964**

**LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972**

**LAND COMPENSATION (NORTHERN IRELAND) ORDER 1982**

**IN THE MATTER OF A REFERENCE**

**R/14/2014, R/15/2014 & R/18/2014**

**BETWEEN**

**NORTHERN IRELAND HOUSING EXECUTIVE – APPLICANT**

**AND**

**SAMUEL PATTERSON & GERALDINE PATTERSON – 1<sup>ST</sup> RESPONDENTS**

**BANK OF IRELAND (UK) PLC – 2<sup>ND</sup> RESPONDENT**

**Re: 25 Broadway Parade, Belfast**

**76 Ebor Street, Belfast**

**54 Kitchener Street, Belfast**

**Lands Tribunal – Mr Henry M Spence MRICS Dip.Rating IRRV (Hons)**

**Background**

1. Mr Samuel Patterson and Mrs Geraldine Patterson (“the 1<sup>st</sup> respondents”) were the owners of 25 Broadway Parade, 76 Ebor Street, and 54 Kitchener Street (“the reference properties”). All of the reference properties were charged in favour of the Bank of Ireland (UK) PLC (“the 2<sup>nd</sup> respondent”).
2. The reference properties were subsequently acquired by the Northern Ireland Housing Executive (“the applicant”) pursuant to a Vesting Order which became operative on 19<sup>th</sup> April 2010. The applicant had referred the question of the compensation payable for the vesting of the reference properties to the Lands Tribunal under paragraph 11 of Schedule 6 to the Local Government Act (Northern Ireland) 1972. The 1<sup>st</sup> respondents have declined to take part in any of the proceedings before the Tribunal.

3. On 20<sup>th</sup> August 2014 the 2<sup>nd</sup> respondent obtained judgement against the 1<sup>st</sup> respondents in the award of £353,180.05 and the 1<sup>st</sup> respondents were subsequently adjudicated bankrupt on 14<sup>th</sup> October 2014.
4. The 2<sup>nd</sup> respondent contends that it is entitled to the compensation payable for the vesting of the reference properties. The amount of compensation is not in dispute.

#### **Procedural Matters**

5. Mr Douglas Stevenson BL appeared for the 2<sup>nd</sup> respondent and Mr Mel Power BL represented the applicant. The 1<sup>st</sup> respondents were notified of the hearing but they did not take part in the proceedings.

#### **The 2<sup>nd</sup> Respondent's Submission**

6. The reference properties were charged to the 2<sup>nd</sup> respondent on 26<sup>th</sup> June 2007 on foot of three separate but identical all monies Deeds of Charge, all of which contained the following clause:-

“12. The Chargeant so far as he has power to do so as Beneficial Owner hereby assigns unto the Bank the benefit of:-

....

(c) all rights of the Chargeant to be paid or receive compensation under any Statute by reason of any compulsory acquisition or other exercise of compulsory powers in relation to the Charged Premises or any refusal withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Charged Premises and so that the production of these presents to the authority or person liable to pay such compensation shall be a sufficient authority to it or him to pay all such monies to the Bank.”

7. Mr Stevenson BL considered therefore that the 1<sup>st</sup> respondents had assigned their rights to compensation to the 2<sup>nd</sup> respondent.

8. Mr Stevenson BL further considered that even aside the wording in the charges the applicant was still obliged to pay the compensation money to the 2<sup>nd</sup> respondent owing to the operation of section 110 of the Land Clauses Consolidation Act 1845 which states:

“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..”

9. Mr Stevenson BL asked the Tribunal to note that the Department of Enterprise Trade and Investment confirmed by email that: “The Official Receiver has no objection to your client proceeding to apply for the compensation offered by NIHE.”
10. Mr Power BL on behalf of the applicant confirmed that it had no objection to the compensation being paid to the 2<sup>nd</sup> respondent.

### **Conclusion**

11. The 2<sup>nd</sup> respondent had provided evidence to the Tribunal which confirmed that the 1<sup>st</sup> respondents were in substantial negative equity. On that basis Mr Stevenson BL had submitted that section 110 of the Lands Clauses Consolidation Act 1845 gave the Tribunal the statutory authority to award the compensation monies to the 2<sup>nd</sup> respondent as mortgagee and he requested the Tribunal to do so.

12. The Tribunal agrees with Mr Stevenson BL and in accordance with “section 110” orders the compensation monies in respect of the vesting of the reference properties to be paid to the 2<sup>nd</sup> respondent.

**ORDERS ACCORDINGLY**

**7<sup>th</sup> May 2015**

**Henry M Spence MRICS Dip.Rating IRRV (Hons)**

**LANDS TRIBUNAL FOR NORTHERN IRELAND**

**Appearances:**

**Applicant: Mr Mel Power BL instructed by Donaghy Carey, solicitors.**

**2<sup>nd</sup> Respondent: Mr Douglas Stevenson BL instructed by C & H Jefferson, solicitors.**