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LON/LVT/769/97

**LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT ASSESSMENT  
PANEL**

Leasehold Reform Act 1967

Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicant: Mr M J Gordon.

**RECEIVED**  
06 MAY 1998

Respondent: Mr A T L Richards.

RE: 379 HIGH ROAD, WOODFORD GREEN, ESSEX.

Date of Tenant's Notice: 5 June 1997

Date of Counter Notice: 18 September 1997

Application to the Tribunal dated: 23 October 1997

Heard: 24 February 1998

**Appearances**

Mr P Murphy FRICS (Clarke Hillyer, chartered surveyors) For the Tenant

Mr M J Gordon - the Landlord in person

Mr P G Tobin BSc MPhil FRICS FCI Arb (Strettons, chartered surveyors)  
For the Landlord

**Members of the Leasehold Valuation Tribunal:**

Mrs V T Barran BA (Oxon) (Chairman)

Mr J A Pickard FRICS IRRV

Mrs L Walter MA

Date of Tribunal's decision 27 March 1998.

379 HIGH ROAD, WOODFORD GREEN, ESSEX IG8 9HQ

1. This application was made by the landlord, Mr M J Gordon, under section 21 of the Leasehold Reform Act 1967 ("The Act") for the Tribunal to determine the price payable for the freehold of 379 High Road, Woodford Green, Essex IG8 9HQ ("the house and premises").
2. At a hearing the landlord himself was present and was represented by Mr Peter Tobin BSc M Phil FRICS FCI Arb and by Mr B Rush, both of Messrs Strettons. The tenant, Mr A T L Richards was represented by Mr P Murphy FRICS of Messrs Clarke Hillyer.
3. On the 1st December 1995 the tenant had served on the landlord a notice under the Act of his claim to acquire the freehold of the house and premises. This claim had been accepted by the landlord and a Leasehold Valuation Tribunal had, on the 18 December 1996, made a determination of the price payable.
4. On the 5th June 1997 the tenant had served a second such notice on the landlord which had resulted in the present application to the Tribunal.
5. It might be helpful here to set out section 9 (3) of the Act:

"On ascertaining the amount payable, or likely to be payable, as the price for a house and premises in accordance with this section (but not more than one month after the amount payable has been determined by agreement or otherwise), the tenant may give written notice to the

landlord that he is unable or unwilling to acquire the house and premises at the price he must pay; and thereupon -

(a) the notice under section 8 above of his desire to have the freehold shall cease to have effect, and he shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property; and

(b) any further notice given under that section with respect to the house or any part of it (with or without other property) shall be void if given within the following three years."

6. The Tribunal considered that initially they should determine whether they had jurisdiction to consider the application.
  
7. Mr Murphy produced and read written representations and provided copies to the landlord's representative and to the Tribunal. He stated inter alia "Following the last Tribunal hearing, Mr and Mrs Richards were unfortunately unable to complete their purchase through lack of funding. Also unfortunately they did not strictly comply with the provisions of the Leasehold Reform Act in the way in which information was provided to Mr Gordon in that they failed to serve a statutory declaration. Mr Gordon's solicitors then served a notice to complete and a default notice calling upon Mr Richards to comply with the provisions of the Act. The notice to complete expired earlier than the default notice."

Mr Murphy further stated that the effect of failing to comply with the notice to complete would terminate the tenant's right to acquire the freehold, but the effect of the default notice was to continue the tenancy until such time as the default notice expired. He contended that the second notice (5 June 1997) was merely to perpetuate the earlier application and did not constitute a brand new application and that the tenant was still entitled to purchase the property at the original value determined by the previous Tribunal.

8. Mr Tobin stated that it was clear that the tenant had failed to complete the purchase and had failed to comply with the requirements of the first notice. He considered that the Act substantially disadvantages landlords, but that it does provide strict time scales which a tenant must adhere to in order to exercise his rights. Once a price is determined a tenant has a fixed period during which he can take advantage of the Act and that in this case, for whatever reason, the tenant had failed to take such an advantage. He considered that the wording of the Act is exact and precise and that the Tribunal did not have jurisdiction.

9. Having listened carefully to the evidence from both parties' representatives and having considered the provisions of the Act, the Tribunal concluded that the tenant had been unable or unwilling to acquire the house and premises at the price determined by the previous Tribunal and that the second notice was void in accordance with section 9(3)(b) of the Act because it had been given within the following three years. Accordingly the Tribunal were lacking in jurisdiction to hear the application. It would of course be open to the parties to settle the matter by consent, or to apply to the County Court, which has

exclusive jurisdiction in proceedings for determining whether a person  
is entitled to acquire the freehold under section 20 of the Act.

CHAIRMAN .....

*Veronica Bann*

DATE ... 27. Marco. 1998. ....