



**PROPERTY CHAMBER
FIRST-TIER TRIBUNAL
LAND REGISTRATION DIVISION**

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY

LAND REGISTRATION ACT 2002

REF No 2015/0271

BETWEEN

KEVIN HUGHES

Applicant

and

NICOLA ROBINSON

Respondent

**Property Address: 34 Lancaster Close, Hamstreet, Ashford
Title number: K800333**

**Before: Judge McAllister
Alfred Place
2 August 2016**

Representation: The Applicant was not represented and did not attend; the Respondent appeared in person

DECISION

Introduction

1. The Respondent, Ms Robinson, is the sole registered owner of 34 Lancaster Close, Hamstreet, Ashford ('the Property'). The Property is registered with title number

K800333. It was purchased on 19 October 2006 by Ms Ashford for the sum of £349,950, of which £297,000 was by way of a mortgage.

2. On 17 October 2014 the Applicant, Mr Hughes, registered two restrictions against the title of the Property, preventing any disposition under which capital money arises without an order of the court, and further preventing any disposition (other than by a registered owner of a charge) without notifying Mr Hughes.
3. I have not seen the statement of truth or other evidence provided by Mr Hughes to Land Registry in support of his applications, but it seems, from the case summary before me, and from his statement of case, that Mr Hughes claims to have a 50% beneficial interest in the Property by virtue of having provided £60,000 towards the purchase price.
4. By an application dated 5 January 2015 Ms Robinson applied to alter the register pursuant to Schedule 4 to the Land Registration Act 2002 by removing the restrictions. Mr Hughes objected on the grounds that the Property was purchased as a family home, that he contributed to the deposit, and that the reason for the mortgage being in Ms Robinson's name only was because their previous home had not yet been sold, and because he did not have a good credit rating.
5. The matter was referred to the Tribunal on 16 April 2015. Following the exchange of statements of case, Mr Hughes was ordered to reply to Ms Robinson's statement in order to assist the Tribunal and the parties to crystallise the issues between them. Mr Hughes did not do so.
6. The case was first set down for hearing on 25 May 2016. Ms Robinson attended, Mr Hughes did not. His former solicitors had sent an email on 21 April 2016 saying that they had passed the notification of the hearing date (sent on 14 April 2016) to their client but had not heard from him since November 2015, and did not consider themselves instructed.
7. The case was adjourned to allow Mr Hughes to attend. An email was sent by him later on 25 May explaining that the email from his solicitor giving him the date of the

hearing had ended up in his 'junk' folder, and that he intended to attend on the next occasion.

8. By letter dated 8 June 2016 the parties were notified of the hearing due to take place on 2 August 2016. On 16 June 2016 Ms Robinson wrote to the Tribunal inquiring whether Mr Hughes had confirmed that he proposed attending. This prompted an email to him on 27 July 2016 reminding him of the hearing date, and informing him that, if he did not attend, the case would proceed in his absence.
9. Mr Hughes did not attend, and no explanation was given by him for this. In the circumstances, and having regard to Rule 34 of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013, I heard the case in his absence. I am satisfied that Mr Hughes was notified of the hearing date and that it is in the interest of justice to proceed in his absence.
10. For the reasons given below I will order the Chief Land Registrar to give effect to the application to cancel the restrictions on the title, and will further order the Chief Land Registrar to reject any further applications Mr Hughes may make to place restrictions on the title to the Property based on any alleged claim to a beneficial interest in the Property.

Background and evidence

11. Ms Robinson and Mr Hughes began living together in 1998. In about August 2000 a property at Aldworth, Bromley Green Road, Ashford, was purchased in Mr Hughes' sole name. At that time Ms Robinson was 22 years old, and working as a PA in London. Their first child was born in 2001. Mr Hughes had a son from a previous relationship, who also lived with them. In due course, Ms Robinson and Mr Hughes had two other children, now aged 12 and 7.
12. By the summer of 2006, Mr Hughes and Ms Robinson decided they needed a larger home. The property at Aldworth had some 9 acres of land, but only two bedrooms. Mr Hughes, it seems, was involved in at least one court case at the time. I have seen a judgment against him dated 14 June 2006 in the sum of just under £300,000.

13. On 10 October 2006 he wrote to the solicitors acting on the sale of the property at Aldworth and on the purchase of the Property explaining that the funds from the sale of the Aldworth property should be distributed as follows: the proceeds would be divided equally between them, but his share would be used to repay a charge in favour of his mother, and Ms Robinson would be liable for the fees connected with the purchase of the Property.
14. The sale of the Aldworth property and the purchase of the Property took place on the same day, 19 October 2006. The sale price of the Aldworth property was £395,000. After the mortgage was repaid, the balance of £194,422.84 was split equally between Mr Hughes and Ms Robinson. Mr Hughes' half share (£97,211.42) was used to repay his mother in the sum of £90,000. He kept the balance of £7,211.42.
15. The completion statement for the purchase of the Property is as follows. The purchase price was £349,950. Of the sum Ms Robinson received from the sale of the Aldworth property, £46,890.00 was spent on the purchase of the Property. The balance (£50,320.85) was paid to her. The mortgage advance, as mentioned above, was £297,412. Part of the £50,000 odd paid to Ms Robinson was used to repay the mortgage. The monthly instalments were in the region of £1,600.00. Ms Robinson was in receipt of some income for work done for the minibus company owned by Mr Hughes.
16. Mr Hughes also had another property at the time, 51 Eastry Close, Ashford, where he was registered on the electoral roll. In fact he continued to reside with Ms Robinson and the children at the Property until he moved out in December 2013. Ms Robinson has been paying the mortgage on the Property since that date.
17. In his Statement of Case Mr Hughes claimed that he had paid £60,000 towards the purchase of the Property. This is not borne out by the completion statement. It is also clear that Mr Hughes only received £7,000 odd from the sale of the Aldworth property. He also claimed that he owed some £25,000 at the time. Again, this is not borne out by the documents: I am told that there were a number of judgments against him at the time, and the one I have seen was for almost £300,000. Finally, it is also not

the case that there was a gap of time between the sale of the Aldworth property and the purchase of the Property (one of the reasons given by him for the fact that the mortgage on the Property was not in his name): the sale and purchase were simultaneous.

18. Ms Robinson was clear in her evidence that there was no agreement or common intention that Mr Hughes would have an interest in the Property; to the contrary, he was clear that he did not want any share in it. I accept this evidence. Ms Robinson also stated that she objected to the application for the restrictions, but that, for some reason her objections were not received in time by Land Registry. In any event she acted promptly in seeking to remove the restrictions from the title.

Conclusion

19. It is clear in my judgment that there is no evidence to support Mr Hughes' case that he has a 50% interest in the Property as claimed, or any interest. The documentary evidence relating to the purchase of the Property and other evidence simply does not support his claim that he paid £60,000 towards the purchase price, or that there was any common intention that he and Ms Robinson would hold the property as tenants in common in equal shares. All the evidence suggests that he wanted to distance himself from the purchase of the Property.

20. It is also significant, in my view, that Mr Hughes has twice failed to attend the Tribunal. Whilst it is possible that there was a genuine misunderstanding on the first occasion, there is no excuse for his non attendance today. His failure to advance his case is notable. I also note that he failed to put in any evidence to rebut or deal with the evidence provided by Ms Robinson in her statement of case, which included the completion statements for both the Aldworth property and the Property, despite being ordered to do so.

21. Ms Robinson is in principle entitled to her costs since the date of the reference (16 April 2015). A schedule of costs, supported by invoices and any other documentation, should be sent to the Tribunal and to Mr Hughes by 19 August 2016. Mr Hughes may

then make such representations or raise such objections as he thinks fit within 2 weeks of receipt of the schedule.

BY ORDER OF THE TRIBUNAL

Ann McAllister

Dated this 3rd day of August 2016