



[2017] UKFTT 230 (PC)

REF/ 20150526

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

**LAND REGISTRATION ACT 2002**

**IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY**

**BETWEEN**

**(1) ABDUL FAROOQ  
(2) SURIYA BEGUM**

**APPLICANTS**

**and**

**KENSINGTON MORTGAGE COMPANY LIMITED**

**RESPONDENT**

**Property Address: 18 Farm Road, Netherton, Dudley DY2 0HE**

**Title Number: WM858340**

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**ORDER**

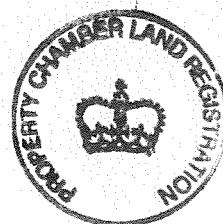
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The Tribunal orders that the Chief Land Registrar do give effect to the application of the Applicants, Abdul Farooq and Suriya Begum for alteration of the register by the removal of entries C6 and C7 from the Charges Register relating to a purported charge dated 16 May 2006 in favour of the Respondent, Kensington Mortgage Company Limited as if the objection of the Respondent thereto had not been made.

**Dated this 3<sup>rd</sup> February 2017**

*Michael Michell*

**BY ORDER OF THE TRIBUNAL**





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**(1) ABDUL FAROOQ  
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**and**

**KENSINGTON MORTGAGE COMPANY LIMITED**

**RESPONDENT**

**Property Address: 18 Farm Road, Netherton, Dudley DY2 0HE**

**Title Number: WM763775**

**Before: Judge Michell**

**Sitting at: Birmingham Employment Tribunal**

**On: 7<sup>th</sup> and 8<sup>th</sup> November 2016**

**Applicant Representation: Mr Clifford Payton, counsel, instructed by Chancellors Solicitors  
Respondent Representation: Dr Nathan Smith, counsel, instructed by Matthew Arnold &  
Baldwin**

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**DECISION**

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## Cases referred to

*Paton v. Todd* [2012] EWHC 1248 (Ch)

1. The Applicants applied to alter the register of title number WM858340 to remove from the charges register the charge in favour of the Respondent dated 16<sup>th</sup> May 2006 and registered on 17<sup>th</sup> May 2006. The Respondent objected to the application and the matter was referred to the Tribunal for determination.
2. It is not in dispute that Mr Farooq cannot speak, read or write English and that his wife, Mrs Begum has a basic understanding of spoken English but cannot read or write English. They rely on family and friends who can speak and read English with matters involving reading and writing in English.
3. The Applicants are husband and wife. The Applicants now live and for many years have lived at 18 Farm Road, Netherton, Dudley (“the house”). On 16<sup>th</sup> May 2005 the Applicants purchased the house. It was a council house owned by Dudley Borough Council and the Applicants purchased in exercise of the right to buy scheme. The purchase price was £54,000 and they received the benefit of a discount of £26,000. The Applicants purchased the house with the benefit of monies loaned by Dudley Building Society and secured by a mortgage of the house. The Applicants were helped by Mrs Begum’s sister, Nazia Bibi and her brother, Shiraz Raja Malik in completing the documentation for the purchase and the mortgage to Dudley Building Society.
4. Money Partners Loans Ltd made an advance of £46,000 under the terms of a loan agreement signed by Money Partners on 16<sup>th</sup> May 2006. The loan agreement names the Applicants as borrowers, provides for the house to be mortgaged as security for the debt and on its face to bear the signatures of the Applicants. It also purports to bear the signatures of Tasmia Malik and Nazia Bibi as witnesses to the Applicants’ signatures.
5. Money Partners Loans Ltd. assigned their interest under the loan agreement and the charge to the Respondent on 17<sup>th</sup> May 2006. The charge was then registered by the Respondent on that day.

6. It is the Applicants case that they did not sign the loan agreement and charge and that they knew nothing of its existence until 3<sup>rd</sup> September 2013 when bailiffs attended the house to execute a warrant for possession.
7. On 6<sup>th</sup> June 2008 the Respondent had obtained a suspended order for possession of the house in proceedings in which the Applicants were named as Defendants. The order records that there was no attendance by the Applicants at the hearing at which it was made.
8. On 31<sup>st</sup> May 2011 the Respondent issued proceedings against the Applicants for possession of the house on the grounds that there were arrears under the charge of £6,136.65. The Particulars of Claim stated that the monthly sum payable under the charge was £496.32 so there arrears were over 12 times more than the monthly sum payable.
9. On 18<sup>th</sup> July 2011 an order for possession was made, suspended while the current monthly instalments plus £200 per month on account of the arrears were paid. The order records that the Applicants were represented at the hearing by a solicitor. It has since been discovered that the solicitor was the duty advisor at the court.
10. By December 2012 the Respondent had obtained the right to enforce the suspended warrant for possession. Dudley County Court gave notice dated 12<sup>th</sup> December 2012 to the Respondent of an appointment on 15<sup>th</sup> January 2013 for the bailiff to enforce the warrant for possession.
11. On 8<sup>th</sup> January 2013 Dudley County Court received an application notice asking the court to suspend the warrant. The notice is dated 3<sup>rd</sup> January 2013 and is purportedly signed by Mrs Begum.
12. By an order dated 7<sup>th</sup> January 2013 County Court suspended the warrant on payment by the defendant, Mrs Begum of £2,000 on or before 21<sup>st</sup> January 2013 and the current monthly instalments and £200 off the arrears of £14,495.18. The order recites that the court heard Mrs Begum and that Mr Farooq did not appear.

13. On 15<sup>th</sup> April 2013 the Respondent made a request for the reissue of the warrant on the grounds that the order of 7<sup>th</sup> January 2013 had not been complied with. The court then gave notice addressed to the Applicants and any other occupiers at the house that eviction would take place on 3<sup>rd</sup> September at 10.15am. This notice was received by the Applicants. Their daughter, Nusrat Farooq read it and told them it was an eviction notice and that eviction was set for 3<sup>rd</sup> September 2013. Mr Farooq and Mrs Begum said that they thought the notice had been served because they were then £300 in arrears in payment of their mortgage with Dudley Building Society. They went to the Building Society and agreed to pay off the arrears by way of instalments of £30 per month.

14. For reasons that are unclear, the court gave notice to the Respondent on 1<sup>st</sup> May 2013 of an appointment for the bailiff to execute the warrant for possession on 20<sup>th</sup> May 2013.

15. On 14<sup>th</sup> May 2013 an application notice was sent to the court applying for another suspension of the warrant. The notice is purportedly signed by Mrs Begum. On 16<sup>th</sup> May 2013 District Judge Lyons ordered that the warrant be suspended on terms that the Applicants pay the Respondent the sum of £5,000 by 4pm on 24<sup>th</sup> May 2013 and the current monthly instalments plus £200 per month towards the arrears and adjourned the hearing until 10<sup>th</sup> July 2013 for the Applicants to bring "a full breakdown of her income and expenditure and proof of employment". The order recited that Mrs Begum did not attend and that the court heard Mr Farooq.

16. As appears from entry and exit stamps in Mrs Begum's passport, Mrs Begum was in Pakistan from 10<sup>th</sup> June 2013 until 2<sup>nd</sup> October 2013.

17. The application to suspend the warrant was dismissed when it came back before the court on 10<sup>th</sup> July 2013. The Order records that Mr Farooq was not present and that the court heard Mrs Begum.

18. On 12<sup>th</sup> July 2013 the Respondent applied again for reissue of the warrant and on 23<sup>rd</sup> July 2013 notice was given of an appointment for the bailiff to execute the warrant on 3<sup>rd</sup> September 2013.

19. On 27<sup>th</sup> August 2013 a further application was made to suspend the warrant. The application was purportedly made by Mrs Begum. The application was dismissed on 29<sup>th</sup> August 2013. The order records that Mr Farooq did not attend and that the court heard Mrs Begum.

20. On 3<sup>rd</sup> September 2013 at about 9.45 am the bailiff attended the house to execute the warrant for possession. Nusrat Farooq was at home in the house at the time. She telephoned her father who was at a local shop and he returned. He says that the bailiff did not believe that he was Mr Farooq initially because he understood Mr Farooq to be with Mrs Begum at the court making an application. Mrs Begum then spoke to the bailiff by telephone from Pakistan. She was unable to persuade him not to enforce the warrant.

21. Nazia Bibi, Mrs Begum's sister then telephoned the Respondent and was then told of the charge in favour of the Respondent and something of the history of the Respondent's attempts to enforce the charge.

22. The Applicants then instructed solicitors who first wrote to the Respondent on 23<sup>rd</sup> October 2013 setting out the Applicants' case that they did not sign the loan agreement or charge dated 16<sup>th</sup> May 2006.

23. At some time before 10<sup>th</sup> December 2013 the Applicants went back into possession of the house.

24. The Respondent on 23 June 2014 applied again to the County Court for permission to issue a warrant of restitution. I understand the current position to be that the County Court proceedings have been stayed pending the outcome of the proceedings before me.

25. The Applicants made the application to HM Land Registry to alter the register by removing the charge in favour of the Respondent by application dated 18<sup>th</sup> July 2014.

26. The Applicants' case is that they did not know anything about the mortgage to the Respondent until September 2013 and that they believe they have been the victims of a fraud perpetrated by Mr Mohammad Zia Rehman ("Mr Rehman").

27. Mrs Begum said that Mr Rehman helped her father in about 2002 when he was convicted of a serious criminal offence and imprisoned for 6 years. Mr Rehman had attended police interviews and court hearings and offered to stand bail for Mrs Begum's father in a substantial sum. From about 2004/2005 Mr Farooq, Mrs Begum and other family members had worked for Mr Rehman in two shops he owned, one in Dudley and the other in Halesowen. Mr Rehman had also assisted by attending parents' evenings at the Applicants' children's school and had attended meetings and counselling sessions when the Applicants' son was suffering from depression.

28. In 2005/2006 the Applicants say that Mr Rehman was helping them with sponsoring Mrs Begum's aunt, Naseem Akhtar to come to the United Kingdom from Pakistan. Mr Rehman stated that he needed Mrs Begum's passport and driving licence and Mr Farooq's passport for the purposes of the sponsorship. These had been handed over to Mr Rehman. In early to mid 2006 Mrs Begum went with Mr Farooq at his request to the Bank of China to open a bank account in her name. Mr Rehman told Mrs Begum this was needed to facilitate the obtaining of a visa for Naseem Akhtar. Mrs Begum said she did not receive any documentation from Bank of China and could not get any information from Mr Rehman as to why. Mr Rehman told her that the application for a visa for Naseem Akhtar had been refused.

29. Mrs Begum said that in about 2005/2005 Mr Rehman, his wife Nazia Rehman and his sister Miss Ambreen became frequent visitors to the Applicants' house. Indeed, Mr Rehman would visit almost every day and would be present in the mornings when the post arrived. Mrs Begum said that the Applicants would refer all post to Mr Rehman. She and Mr Farooq relied on Mr Rehman to explain the post to them.

30. Mrs Begum gave evidence that after she had spoken to the bailiff on 3<sup>rd</sup> September 2013, she telephoned Mr Rehman to ask him to help her to find out what was happening. Mr Rehman told her that the bailiff was probably enforcing parking fines due from Mr Farooq and that there was nothing to worry about. Mrs Begum said that after much discussion, Mr Rehman admitted to her that he had used the Property as guarantee for monies he had borrowed. Mrs Begum said that Mr Rehman then switched off his mobile telephone and she was not able to get in contact with him again despite numerous attempts to do so.



31. Mr Rehman was not called as a witness. The Applicants did not explain what steps they took to find and interview him. The Respondent does not appear to have taken any steps itself or by its legal representatives to find and interview Mr Rehman.

32. The persons who purportedly signed the charge as witnesses to the signatures of the Applicants were called to give evidence.

(1) Mr Raja Mahammed Sharaz is Mrs Begum's brother. His address is 31 Jasmine Road, Dudley. His purported signature appears on the charge above the name "Raja Sharaz" and the address "31 Jasmine Road, Dudley" as a witness to the signature of Mr Farooq. His evidence was that he did not sign the charge or witness the signature of Mr Farooq on the charge.

(2) Mr Zulfiqar Ahmed is the brother-in-law of the Applicants. He gave his address as 22 Pitfield Row, Dudley. His purported signature appears on the charge above the name "Zulfiqar Ahmed" and the address "142 Green Park Road, Dudley" as a witness to the signature of Mrs Begum. His evidence was that he did not sign the charge or witness the signature of Mrs Begum on the charge.

33. The Respondent produced a number of documents from the Money Partners's file in addition to the loan agreement and the charge.

(1). First there is a loan application form dated 7<sup>th</sup> April 2006. The names of the Applicants appear on the form as applicants for the loan, together with their dates of birth and a landline and mobile telephone number for them. The name of a broker is given, Rainbow Comm. Finance Ltd of North Acton Road, London. The loan is of £46,000 for a term of 20 years. The form indicates that the applicants were self-employed with an annual income of £7,000 and a business called "Farooq Suppliers" trading from 18 Farm Road, Dudley and said to have been established for 3 years. The name, address and telephone number of the accountant for the business is given, the accountant's address being in London. The Applicants' evidence is that they did not sign the application form. They did not then have and have never had any business known as "Farooq Suppliers" or any other business. They were then and had since 2004 been in receipt of income support. The mobile telephone number given for them on the form is not their telephone number. The landline telephone number given for them on the form is not their telephone number. The name and address of the accountant set out on the form is "fraudulent".



- (2). Second, there is a BT bill reminder addressed to Abdul Farooq at 18 Farm Road, Dudley. The telephone number to which it relates is not the number set out in the loan application form. The copy bill was faxed to Rainbow Associates from Dudley library on 2<sup>nd</sup> May 2006
- (3). Third, there are two Self-Certification Declarations dated 7<sup>th</sup> April 2006. One relates to Abdul Farooq and the other to Suriya Begum. Each is on paper headed "Farooq Suppliers" giving an address of 18 Farm Road, Dudley and contains a declaration that Abdul Farooq or Suriya Begum respectively was self-employed as "supplier/commission agent of household utensils and tools" for a period of 3.5 years and had a total gross annual income of £35,000. The forms are purportedly signed by Abdul Farooq and Suriya Begum.
- (4). Fourth, there is an Occupancy Declaration dated 24<sup>th</sup> April 2006. The Applicants' evidence is that they did not sign this document.
- (5). Fifth, there is a Declaration of Income dated 9<sup>th</sup> May 2006, declaring that Abdul Farooq and Suriya Begum each have a gross monthly income as Suppliers/ Commission agents of household utensils and tools of £2,916 per month. The declaration is purportedly signed by Abdul Farooq and Suriya Begum. The Applicants' evidence was that the signatures on this document are not theirs.
- (6). Sixth, there is a copy of Dudley Building Society annual mortgage statement for the year 2005/2006 in respect of the mortgage loan secured on the Property. The statement was faxed from Dudley library on 3<sup>rd</sup> May 2006. This shows that although the initial advance in May 2005 was £54,000 and the direct debit payment demand for February 2006 had been rejected, the amount outstanding at 31<sup>st</sup> March 2006 was £53,577.
- (7). Seventh, there is a copy of a letter addressed to "To whom it may concern" and purportedly signed by Abdul Farooq and Suriya Begum giving a breakdown of the purposes for which the loan advance was required. £40,000 was said to be for home improvements, made up of £10,000 for a new bathroom, £20,000 for a new kitchen, £5,000 for upgrading central heating and £5,000 for new carpets. The balance of £6,000 was said to be for debt consolidation. The Applicants' produced recent photographs of the kitchen at 18 Farm Road.

The kitchen appears to be in a poor state and there is no sign in the photographs of £20,000 having been spent on a new kitchen in or after 2005.

(8). Eighth, there is a copy of Suriya Begum's passport

34. The Respondent also produced copies of reports compiled by its employees and agents.

(1) The first report is a "Fact find report" prepared by David Johnston and recording a visit by Mr Johnston to 18 Farm Road on 15<sup>th</sup> February 2008 and recording statements said to have been made by Mr Farooq at that meeting. The report is purportedly signed by Abdul Farooq and Suriya Begum.

(2) The second report is a report by Mr David Johnston of Property Service Partnership Ltd recording an interview dated 21<sup>st</sup> August 2008. The report refers to a meeting held on 21<sup>st</sup> August 2008 and said to have been with "Mrs Farooq" at 18 Farm Road. It records a meeting between Mr Rodgers and "Mrs Farooq". It records that following the meeting, Mr Johnston spoke to David Hassell of Kensington Mortgages, who confirmed that the borrowers had paid £1,581.30 and would make monthly payments of £790.65 from September 2008. The Applicants' evidence is that they did not have any meeting with Mr Johnston. The mobile telephone numbers set out in the report as the Applicants' numbers are not their numbers.

(3) The third report is a "Customer Liason Report" dated 13<sup>th</sup> December 2011 made by Mr David Rodgers. It records a meeting between David Rodgers and Mr Farooq and Mrs Begum at 18 Farm Road on 13<sup>th</sup> December 2011. The Applicants' evidence is that they did not have any meeting with Mr David Rodgers and that the mobile telephone numbers set out in the report are not their telephone numbers.

Neither Mr David Johnston nor Mr David Rodgers was called to give evidence.

#### Expert Evidence

35. Elisabeth Briggs, MNatSc MSc, a Forensic Document Examiner, was jointly instructed by the parties to examine the questioned signatures on the Legal Charge, to compare them with specimen signatures of the Applicants and to express an opinion as to whether or not the signatures on the charge are genuine. Mrs Briggs' conclusions were that there is limited evidence to show that the signature in the name of Mr Farooq is not genuine

and was not written by him and that it is not possible to determine whether or not the signature in the name of Mrs Begum is genuine.

#### Law

36. The registrar may alter the register for the purpose of correcting a mistake – Land Registration Act 2002 Sch. 4 para. 5. If on an application for alteration under paragraph 5, the registrar has power to make the alteration, the application must be approved, unless there are exceptional circumstances which justify not making the alteration – Sch. 4 para. 6(3). The phrase “exceptional circumstances” in paragraph 6(3) was considered by Morgan J. in *Paton v. Todd* [2012] EWHC 1248 (Ch) at paragraph 67,

““Exceptional is an ordinary, familiar English adjective. It describes a circumstance which is such as to form an exception, which is out of the ordinary course, or unusual or special, or uncommon; to be exceptional a circumstance need not be unique or unprecedented, or very rare but it cannot be one that is regularly, or routinely, or normally encountered: see *R v. Kelly* [2000] 1 QB 198 at 208C-D (a decision from a very different context but nonetheless helpful as to the ordinary meaning of “exceptional circumstances”). Further, the search is not for exceptional circumstances in the abstract but those which have a bearing on the ultimate question whether such circumstances justify not rectifying the register”.

#### Res judicata

37. Counsel for the Respondent submitted that the Respondent’s title was “res judicata”. He submitted that the title of the Respondent was established by each of the possession orders made in the County Court. Each case was necessarily based upon a finding by the court that the Respondent had a legal title as chargee.

38. This argument is misconceived. At the date the possession orders were made the charge was registered. Section 51 of the Land Registration Act 2002 provides that on completion of the relevant registration requirements, a charge created by means of a registrable disposition of a registered estate has effect, if it would not otherwise do so, as a charge by deed by way of legal mortgage. Section 24 of the 2002 Act says that a person is entitled to exercise owner’s powers in relation to a registered charge if he is the registered proprietor or entitled to be registered as proprietor. Owners powers in relation to a registered charge are defined in section 23(2)(a) as “power to make a disposition of any kind permitted

by the general law in relation to an interest of that description, other than a legal submortgage”. Section 58 provides as follows

“If, on the entry of a person in the register as the proprietor of a legal estate, the legal estate would not otherwise be vested in him, it shall be deemed to be vested in him as a result of the registration”.

“Legal estate” is defined in Section 132 as having the same meaning as in the Law of Property Act 1925. Section 205 of the Law of Property Act 1925 defines “legal estates” as meaning the estates, interests and charges, in or over land (subsisting or created at law) which are by this act authorised to subsist or to be created as legal estates. Section 1(2) of the LPA provides that a charge by way of legal mortgage is capable of subsisting or of being conveyed or created at law. A charge by way of legal mortgage is therefore a “legal estate” within the meaning of a s. 205 LPA 1925. On registration of the legal charge in favour of the Respondent, the Respondent was deemed to have vested in him the legal charge and remains deemed to be vested in him unless and until the charge is removed by alteration of the register. It follows that when considering the claim for possession, the County Court needed to do no more than ascertain that the Respondent had a registered charge. As the Respondent had a registered charge, it had a legal title as charge. As the Respondent had the registered charge, it was entitled to possession subject only to the specific statutory powers given to the court to control the right of a chargee to go into possession. On the claim for possession, the argument that the signatures of the chargors had been forged was irrelevant. That would have been relevant only if an application to alter the register was before the county court. There was no such application before the county court.

#### Findings of Fact

39. I find that the Applicants did not sign the legal charge. I am satisfied that they did not know about the loan from Kensington Mortgages until Kensington took possession of the 18 Farm Road. I so find for the following reasons.

(1) First, there is the evidence of the Applicants that they did not sign the legal charge. They gave their evidence in a clear and straightforward way. There was nothing in the way that they gave evidence to cast doubt on their credibility.

(2) Second, there is the evidence of the attesting witnesses that they did witness the signatures of the Applicants on the legal charge and did not themselves sign the legal charge. Like the Applicants, they gave their evidence in a clear and straightforward way. There was nothing in the way that they gave their evidence to cast doubt on their credibility.

(3) Third, there is the expert evidence of Mrs Briggs that there is limited evidence to show that the signature on the legal charge is not the signature of Mr Farooq and that it is not possible to determine whether the signature purporting to be the signature of Mrs Begum was written by Mrs Begum. This evidence supports the evidence of the Applicants that Mr Farooq did not sign the legal charge and does not contradict the evidence of the Applicants that Mrs Begum did not sign it.

(4) Fourth, the loan application form contains inaccurate information as to the Applicants' occupation and telephone numbers. The landline telephone number did not even match the telephone number for which a BT bill was provided. Even if the Applicants had deliberately lied about having a business, it seems improbable that they would not have given their true telephone numbers if they had been taking out the loan themselves.

(5) Fifth, the Applicants gave a plausible explanation as to how the lender could have obtained a copy of Mrs Begum's passport. Mrs Begum had given it to Mr Rehman when he had asked for it in the context of helping to obtain a visa for Mrs Begum's aunt to visit the United Kingdom.

(4) Sixth, there is the evidence of Mrs Begum's passport that she was out of the country at the time when she is recorded as having attended court hearings concerning the enforcement of the legal charge. The records of Mrs Begum attending court hearings are not therefore evidence from which it can be deduced that Mrs Begum must have known about the legal charge. On the contrary, they are evidence that someone was impersonating Mrs Begum at a time when she was out of the country and could well have been impersonating her at hearings when she was in the country. The Respondent did not seek to submit that the Applicants sent someone to the court hearings to impersonate Mrs Begum. The evidence that someone went along to the court hearings pretending to be Mrs Begum is therefore evidence to support the Applicants' case that they were the victims of a fraud.

(5) Seventh, the Respondent did not dispute that the Applicants cannot read English. As the Applicants could not read English, they could not themselves have read the letters from the court and the Respondent concerning the legal charge and loan which it secured. The fact that many letters were sent to the Applicants is not convincing evidence that the Applicants must have known about the legal charge. The Applicants would have needed someone else to read the letters for them. Their evidence that they asked a trusted family friend, who was a man of business and had helped Mrs Begum's father in the past, to read the letters is entirely plausible.

(6) Eighth, there is no evidence that the Applicants received the loan money or used it for their benefit. Certainly, the current state of their kitchen as appearing from the photographs suggests that the loan money was not used for one of the reasons for which it was said to have been borrowed.

#### Alteration of the register

40 As the Applicants did not execute the charge, there is a mistake on the register. The charge should not be on the register. The Applicants are now and were at the date of the application to alter the register in possession and the Respondent is not. Paragraph 6(3) of Schedule 4 to the Land Registration Act 2002 provides that if on an application under paragraph 5, the registrar has power to make the alteration, the application must be approved unless there are exceptional circumstances which justify not making the alteration.

41. Mr Payton for the Respondent submitted that the Applicants failed to take proper care in respect of the charged property, were grossly negligent and “abdicated” responsibility for their property and finances to Mr Rehman. He submitted that it was “difficult to conceive of a case which would be more exceptional so as to justify leaving the register unaltered”.

42. I do not accept Mr Payton’s submission. The question is not whether the Applicants were negligent or failed to exercise proper care. That would be the test if the alteration of the register would affect the title of the registered proprietor of a registered estate in land in possession. That is not the case here. The correct test is whether there are exceptional circumstances which justify not making the alteration. It is not in my judgment exceptional for persons living in the United Kingdom with little or no grasp of the English language and little awareness of business to rely on a trusted friend to assist them and to place the degree of reliance in such a friend that the Applicants placed in Mr Rehman. Mrs Begum and Mrs Farooq had little or no English and had to rely on someone else to read their post and to assist them with matters such as attempting to obtain a visa for an aunt to enter the country. Mr Rehman had helped Mrs Begum’s father in the past and had helped by attending parent’s evenings at the Applicants’ children’s schools. There is nothing to indicate that at the time Mrs Begum and Mr Rehman placed their trust Mr Rehman, they should have known him to be untrustworthy. Mrs Begum and Mr Farooq appear to have been the victims of a not unsophisticated fraud. The circumstances are not exceptional so as to justify not making the alteration.



43. I do not find there are exceptional circumstances here which justify not making the alteration. I have accepted the Applicants' evidence that they did not sign the charge, that they did not know about the charge and that they did not receive any of the money secured by the charge. In those circumstances, I cannot see any justification for not making the alteration.

#### Conclusion

44. I shall direct that the Chief Land Registrar do give effect to the application of the Applicants as if the objection of the Respondent thereto had not been made.

#### Costs

45. My preliminary view is that the Respondent should pay the Applicants' costs to be assessed. The Applicants have won and there would appear to be no reason why costs should not follow the event, as in the usual course. Any party who wishes to submit that some different order should be made as to costs, should serve written submissions on the Tribunal and on the other party by 5pm on 14<sup>th</sup> February 2017.

BY ORDER OF THE TRIBUNAL

*Michael Michell*

DATED THIS 3<sup>rd</sup> FEBRUARY 2017

