20 February 2013

PRESS SUMMARY

Sharif (FC) (Respondent) v The London Borough of Camden (Appellant) [2013] UKSC 10

On appeal from: [2011] EWCA Civ 463

JUSTICES: Lord Hope (Deputy President), Lord Walker, Lady Hale, Lord Kerr, Lord Carnwath

BACKGROUND TO THE APPEALS

This appeal concerns the interpretation of a provision of the Housing Act 1996 ("the 1996 Act") relating to the duties of local housing authorities to provide accommodation for those who are, or claim to be, homeless or threatened with homelessness. Section 175 of the 1996 Act states, in essence, that a person is homeless if he has no accommodation "available for his occupation" in the United Kingdom or elsewhere. According to section 176, accommodation is to be regarded as available for a person's occupation only if it is "available for occupation by him together with any other person who normally resides with him as a member of his family, or any other person who might reasonably be expected to reside with him" **[3]**. The phrase "available for his occupation" is relevant not only to establishing whether a person is homeless for the purposes of the 1996 Act, but also to identifying what duties a local authority owes to a person who is, or claims to be, homeless **[4]**.

In 2004, Camden London Borough Council accepted that it owed a duty under the 1996 Act to provide accommodation to Ms Sharif, her father (a man in his 60s with certain health problems) and her sister (aged 14), on the basis that Ms Sharif was homeless. They were initially accommodated by the Council in a hostel and later moved to a three-bedroom house owned by a private sector landlord. In 2009, the Council asked Ms Shariff, her father and her sister to move to two units on the same floor of a block of flats in North London. Each unit comprised a single bed-sitting room with cooking facilities, plus a bathroom. The two units were separated by only a few yards. It was envisaged by the Council that Ms Sharif and her sister would share one unit, and the other unit (suitable only for one person) would be used by her father **[8]**. Ms Sharif refused the offer, saying that the accommodation was not "suitable" because her father's medical condition required them to live in the same unit of accommodation **[9]**. Ms Sharif requested a review of the Council's decision, but the Council's reviewing officer concluded that the accommodation offered was "suitable" **[9]**.

Ms Sharif appealed to the London Central County Court on a number of grounds, including the suggestion that the accommodation was not "suitable" and that section 176 of the 1996 Act precluded the Council from offering Ms Sharif and her family two separate units of accommodation **[10]**. The County Court dismissed the appeal **[11]**. There was no further appeal on the issue of the suitability of the accommodation. However, the Court of Appeal reversed the County Court's decision on the basis that the words "together with" in section 176 require a homeless family to be housed in the same unit of accommodation **[12]**. The Council appealed to the Supreme Court.

JUDGMENT

The Supreme Court allows the Council's appeal. It holds that section 176 of the 1996 Act does not preclude local authorities from offering a homeless family two separate units of accommodation. The lead judgment for the majority is given by Lord Carnwath. Lord Kerr gives a dissenting judgment.

REASONS FOR THE JUDGMENT

- The majority concludes that, whilst one of the main purposes of the 1996 Act is to ensure that members of a homeless family are not split up by local housing authorities, section 176 does not prevent a local housing authority offering a homeless family two separate units of accommodation if they are so located that they enable the family to live "together" in practical terms. That is a factual judgment to be made by the local housing authority **[17]**.

- The 1996 Act requires accommodation provided by a local housing authority to be "suitable". However, Ms Sharif no longer denies that the two flats offered to her by the Council meet that requirement **[18, 29]**. Neither the word "accommodation" nor the words "together with" in section 176 imply that a homeless family must be accommodated in the same unit of accommodation **[5, 17]**.

- Had the Council's reviewing officer been asked to answer the question of whether section 176 prohibits the Council from housing a homeless family in two separate units of accommodation, it is reasonably clear that he would have answered in the negative. The main obstacle to family living which had been raised before the reviewing officer had been the problem of caring for Ms Sharif's father in a separate unit of accommodation. That problem was discounted by the reviewing officer, on the basis that the problem of communication between the two flats would be no greater than in a house with two floors **[18]**.

- The arguments made on behalf of Ms Sharif would produce surprising results. For example, the Council would not be able to improve the position of a homeless family residing in an overcrowded house or flat by offering them an additional neighbouring unit of accommodation, even on a temporary basis **[19]**. Ms Sharif also accepted that two separate rooms in a hostel or hotel would satisfy the requirements of section 176 of the 1996 Act. However, the majority found it hard to see why that should be treated differently from the provision of two adjacent flats **[20, 30]**. Lady Hale emphasises that there is no requirement under the 1996 Act for local housing authorities to provide a communal living space to those who are, or claim to be, homeless **[30]**.

- The majority emphasises that their interpretation of section 176 of the 1996 Act does not give local housing authorities a free hand. It is a fundamental objective of the 1996 Act to ensure that families can "live together" in a true sense; accommodation provided by a local housing authority will not satisfy section 176 unless it enables that objective to be achieved **[23]**. Lord Hope says that the test is not to be exploited by local housing authorities; it must be applied reasonably and proportionately **[28]**.

- Lord Kerr, dissenting, says that section 176 requires a local housing authority to accommodate a homeless family in the same unit of accommodation. The accommodation must be of a character that will allow all members of the family to live within it **[34]**. Lord Kerr concludes that the words "together with" in section 176 imply joint occupation of the same unit of accommodation **[32, 33]**. He takes the view that "sufficient proximity" is very different from "living together" **[35]**.

References in square brackets are to paragraphs in the judgment