



[2017] UKFTT 0883 (PC)

**REF/2015/0835**

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

**LAND REGISTRATION ACT 2002**

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

**BETWEEN**

**Mohammad Azam**

**APPLICANT**

**and**

**Mohammad Mahboob Mumtaz and Choudhry Mohammad Asif Mumtaz**

**RESPONDENTS**

**Property Address: 42 Walsingham Street, Walsall, WS1 2JY  
Title Number: SF59853**

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**ORDER**

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Upon hearing the Applicant and the solicitor for the Respondent

IT IS ORDERED as follows:

1. The Chief Land Registrar is to cancel the Applicant's application dated 21 January 2015 to for the entry of a restriction on the title to the property.
2. The Applicant is to pay the Respondents' costs of the reference to this tribunal, to be summarily assessed if not agreed.

Dated this 13 November 2017

**Elizabeth Cooke**

BY ORDER OF THE TRIBUNAL





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**ORDER**

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UPON the Applicant's application for permission to appeal the order of 13 November 2017, made orally at the hearing on that date:

IT IS ORDERED as follows:

**Permission to appeal is refused.**

In accordance with Section 111 of the Land Registration Act 2002 and with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 21 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the applicant may make further application for permission to appeal to the Upper Tribunal (Tax and Chancery Chamber). Such application must be made in writing and received by the Upper Tribunal (Tax and Chancery Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal.

The Upper Tribunal (Tax and Chancery Chamber) may be contacted at: Upper Tribunal Tax and Chancery Chamber, 5<sup>th</sup> Floor Rolls Building, 7 Rolls Building, Fetter Lane, London EC4A 1NL DX 160042 Strand 4

**Reasons:**

1. On 13 November 2017 I directed the registrar to cancel the Applicant's application for a restriction on the title to the Respondents' property, 42 Walsingham Street, Walsall. I did so because the Applicant's own Statement of Case reveals no basis on which he can be entitled to a restriction. He says that he lent the Respondents the money for the deposit on the property and some legal fees; but an unsecured loan does not give him an interest in the property.
2. The Applicant explained to me at the hearing on 13 November 2017 that his real motivation was to protect his daughters' interest in the property; they have respectively been married to the Respondents. I have explained to him that he cannot have a restriction to protect someone else's interest.
3. Accordingly any appeal against my order will have no prospect of success and I refuse permission to appeal.
4. I also made an order for costs against the Applicant. The Applicant was upset about this because he felt that the Tribunal should have told him that he did not have a case; but the Tribunal did so, in its rule 9 notice on 14 October 2016. There is no reason why the Applicant should not pay the Respondents' costs of the reference to the Tribunal, and an appeal has no prospect of success; accordingly permission to appeal is refused.

Dated this 13 November 2017

**Elizabeth Cooke**

BY ORDER OF THE TRIBUNAL



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**DECISION**

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1. The Applicant, Mr Azam, has applied for the entry of a restriction on the title to 42, Walsingham Street, Walsall, of which the Respondents are the registered proprietors. They have objected to his application and so it has been referred to the Land Registration Division of the First-tier Tribunal pursuant to section 73 of the Land Registration Act 2002.
2. The Respondents are two of the Applicant's four nephews, all brothers, all of whom have been married to the Applicant's four daughters. I was told at the hearing that the property was bought to be a home for the Applicant's two daughters and their

- husbands the two Respondents. If I have understood correctly both those marriages have ended in divorce.
3. The Applicant has provided a Statement of Case dated 16 February 2016 and a further Statement of Case dated 29 March 2016. Both documents explain that he paid the deposit on the purchase of the property, together with some legal fees. As I understand it the Respondents do not dispute this, although they say that they have repaid the debt. Whether they have done so or not, an unsecured debt does not confer an interest in the property. On 14 October 2016 the Tribunal issued a notice under rule 9 of the Tribunals Procedure (Property Chamber) (First-tier Tribunal) Rules 2013 explaining why the Applicant was not entitled to a restriction. The Applicant objected to the proposed striking out of his case. For reasons that are not clear to me the matter dragged on and was eventually listed for disposal following that Rule 9 notice.
  4. I heard the parties at Centre City Tower, Birmingham, on 13 November 2017. The Applicant attended with his daughter, Ms Azam, and a cousin, Ms Saleem, both of whom interpreted for him and spoke for him. The Respondents were represented by Mr Solanki, a trainee solicitor.
  5. The Applicant explained to me at the hearing that he really wanted to enter a restriction to protect his daughters' interest in the property. I explained to him that he is not entitled to do this, but that they must themselves make any application they wish to make. Mr Solanki pointed out that the two Respondents' divorce proceedings have resolved all the issues relating to the property; the Applicant does not agree. But that is not a matter that I can determine. I explained to the Applicant that if he has claim in debt he must pursue that in the County Court.
  6. Neither the Applicant's Statement of Case, nor the arguments presented to me at the hearing on 13 November 2017, disclose any reason why the Applicant is entitled to a restriction against the title to the property. Accordingly I have directed the registrar to cancel the Applicant's application.
  7. In this tribunal the losing party is generally ordered to pay the other party's costs. The Respondents applied for their costs at the hearing and after some discussion with the Applicant I have made an order for costs. The Respondents are to provide a schedule of costs within 28 days of the date of this decision, following which the Applicant will have the opportunity to comment on the sum claimed. I pointed out to Mr Solanki that only costs relating to the reference to the Tribunal can be claimed, and that I do not expect the claim for costs to be a very large one.

8. Mr Azam's response to my order for costs was to say that he wishes to appeal both my substantive decision and the order for costs. I treated that as an application for permission to appeal and refused it, and have issued a separate written decision to that effect. The Applicant can of course apply to the Upper Tribunal for permission to appeal.

Dated this 13 November 2017

Elizabeth COOKE

BY ORDER OF THE TRIBUNAL

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