



REF/2017/0046

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

**LAND REGISTRATION ACT 2002**

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

**BETWEEN**

**Yusuf Ispir**

**APPLICANT**

**and**

**Erdal Kara**

**RESPONDENT**

**Property Address: 188 High Street, Walthamstow, London, E17 7JH  
Title Number: AGL336849**

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**DECISION**

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1. The Respondent, Mr Erdal Kara, is the registered proprietor of leasehold property at 188 High Street, Walthamstow. His title is registered at HM Land Registry under title number AGL336849. I use the words “the property” in this decision to refer to that leasehold property. The Applicant Mr Yusuf Ispir has applied to have a restriction entered on the title to the property on the basis that he has a beneficial interest in it, arising from an agreement made on 2 March 2015. The Respondent has objected to his

application and the dispute has been referred to this tribunal pursuant to section 73 of the Land Registration Act 2002.

2. A hearing took place before me in Alfred Place on 2 October 2017. The Applicant attended without legal representation and presented his case with the assistance of an interpreter; the Respondent attended and was represented by Mr David Brounger of counsel.
3. I have directed the registrar to cancel the Applicant's application. I gave my decision to the parties at the hearing, with a summary of my reasons which I now set out in full.
4. Before I do so I deal with a matter of evidence.

#### **A matter of evidence**

5. At the hearing the Applicant asked to be allowed to put before the tribunal a transcript of a conversation which he recorded between himself and the Respondent in March 2016. He says at paragraph 8 of his Statement of Case that it relates to a partnership agreement with the Respondent. Mr Brounger objected to his being allowed to use the transcript. I allowed the Applicant to explain why he wanted to use it but I did not allow him to do so - first because the Respondent has not had the opportunity to check the translation, so that it would not be fair to use it, and second because it would not help the Applicant. It is not relevant to the matter I have to decide, which is whether the Applicant is entitled to have a restriction entered on the title to the property as a result of the agreement made in March 2015.

#### **The decision**

6. The property is a shop in Walthamstow. Both parties say that on 2 March 2015 they agreed that the Applicant would buy the property for £153,000. Both parties say that the full amount was not paid; the Applicant in his Statement of case and his witness statement says that he paid £100,510. At the hearing he said he paid in full but I find as a fact, in accordance with his written evidence, that he did not pay in full. I make no finding as to what exactly he paid because that is not relevant to the very narrow issue that is before this tribunal. The Applicant says that the Respondent misrepresented the opening hours and turnover of the business, and deceived him by not making it clear that he (the Respondent) was not the lessee at that date, although he became the lessee later. Again, I make no finding about those matters. It is not in dispute that the agreement to buy and sell the lease was not written down.
7. What was written down was a schedule of payments showing the sum of £153,000 and how it was calculated. But there was no written agreement to buy and to sell.

8. That being the case there was no contract to buy the property. As I explained to the Applicant at the hearing the law requires a contract to buy land (including a lease) to be in writing, and if it is not in writing it is void (section 2 of the Law of Property (Miscellaneous Provisions) Act 1989).
9. The Applicant is only entitled to the entry of a restriction if, notwithstanding the absence of a valid contract between them, the Applicant and the Respondent reached an agreement that the Applicant would become entitled to an interest in the property as a result of paying part of the price; in other words, and in legal jargon, a common intention constructive trust. It is agreed that he paid at least part of the price, and there has been a series of agreements and arrangements between the parties since 2 March 2015. Indeed, there was a time when the Applicant took over the running of the shop, although he later gave the keys back. There may also have been an agreement that the Applicant and the Respondent would go into partnership. I make no finding about any of those matters because they are not relevant to the one issue I have to decide, which is whether the verbal, unwritten agreement in March 2015 gave rise to any trust in the Applicant's favour.
10. It is clear to me that it did not. On the Applicant's own evidence, on which he was cross-examined at the hearing, the agreement was a straightforward agreement for sale and purchase. The price was not paid in full, and even on the Applicant's account there is a substantial shortfall between the agreed price and the amount he paid. There is no shred of evidence that the Respondent agreed that they would become joint owners on some sort of shared ownership basis so that the Applicant, on paying part of the price, would become part owner. In the absence of any evidence that the property is held on a trust for him the Applicant is not entitled to a restriction. He has no property right although he may have a claim in debt.
11. Accordingly the Applicant's application to HM Land Registry must be cancelled.
12. As I have said above, the Applicant may have one or more other claims against the Respondent. He told me that he has commenced a county court action, in the Edmonton County Court, which of course has jurisdiction to deal with a claim in debt, or for breach of a partnership agreement. But as things stand the Applicant has no interest in the property.

#### **Costs**

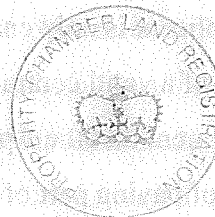
13. In this tribunal costs follow the event, which means that the Respondent is entitled to have his legal costs paid by the Applicant. At the hearing I invited the Respondent to

make a written claim for costs within 28 days of the hearing; if he does so, the Applicant will have 21 days to respond and the respondent will have a right of reply.

Dated this 2 October 2017

Elizabeth Cooke

BY ORDER OF THE TRIBUNAL





[2017] UKFTT 0810 (PC)

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**ORDER**

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IT IS ORDERED as follows:

The Chief Land Registrar is to cancel the Applicant's application dated 11 August 2016 for the entry of a restriction on title number AGL336849.

Dated this 2 October 2017

BY ORDER OF THE TRIBUNAL

**Elizabeth Cooke**



