



[2018] UKFTT 0077 (PC)

PROPERTY CHAMBER  
FIRST-TIER TRIBUNAL  
LAND REGISTRATION DIVISION

REF NO 2016/0335

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY  
LAND REGISTRATION ACT 2002

BETWEEN:

LOIS MERINDA HARRIS

Applicant

And

WESTONIAN LIMITED

Respondent

Property address: The Jamaica Inn, 2 Grosvenor Road, St Pauls, Bristol BS2 8XW

Title number: AV215418

Before: Judge David Taylor  
Alfred Place, London  
12th October 2017

Representation: The Applicant was represented by Mr Joshua Dubin of Counsel, and the Respondent appeared in person through its officer, Anthony Thomas

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ORDER

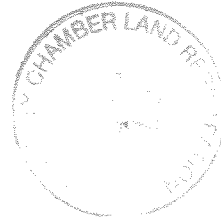
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THE TRIBUNAL ORDERS as follows:-

1. The Chief Land Registrar shall give effect to the Applicant's application dated 22nd September 2015 as if the Respondent's objection had not been made.

**BY ORDER OF THE TRIBUNAL**

*David Taylor*



**DATED 10th January 2018**



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DECISION

1. At an auction on the 30th April 2015, the Respondent contracted to purchase the Applicant's freehold property known as The Jamaica Inn, at 2-4 Grosvenor Road, St Pauls Bristol ('the property') for £350,000. The contractual completion date was 9th July 2015. When completion did not take place on that date, the Applicant served notice to complete. When completion had still not taken place upon expiry of that notice to complete, the Applicant purported to terminate the contract.
2. Between the date of service of the notice to complete and its expiry, the Respondent entered a unilateral notice against the Applicant's registered title. The notice protected the Respondent's contractual entitlement to purchase the property.
3. By an application to HM Land Registry dated 22nd September 2015, the Applicant applied to cancel the unilateral notice on the ground that the contract for the sale and the purchase of the property had been terminated. The Respondent objected to that application by its letter dated 19th October 2015. In its letter of objection the Respondent referred to the fact that the property had been operated as a public house, and it relied upon the Applicant's alleged breach of an agreement to transfer the premises licence for the property into the Respondent's name. The Respondent claimed that, as a result of the Applicant's breach of this agreement, it had been unable to draw down the funds necessary to enable it to complete the purchase of the property. The consequence of this, the Respondent said, was that '*this contract is still live and we are ready able and willing to complete and wish to do so.*'
4. The parties were unable to resolve their differences by negotiation, and the resulting dispute between the parties was referred to this Tribunal for determination. Pursuant to directions given by the Tribunal, the parties exchanged Statements of Case. The Respondent, through its Statement of Case, raised an additional argument in response to the Applicants application, viz. that she had not been ready, able and willing to complete the sale and purchase of the property at the time of service of the notice to complete, nor at the time of its expiry, and accordingly that her purported termination of the contract had been ineffective.
5. In late 2016, the Applicant applied to strike out the Respondent's Statement of Case. That application was heard by Judge Rhys, and was dismissed by him on the ground that the disputes between the parties raised factual issues which needed to be determined at a hearing at which oral evidence would be heard.
6. That hearing eventually took place before me on the 12th October 2017. At the hearing the Applicant was represented by Counsel, and the Respondent by its officer Mr Anthony Thomas. I heard oral evidence from Ms Harris and from Mr Thomas. During the course of the hearing, it became apparent that, despite an earlier direction of the Tribunal, the Respondent had not been provided with complete copies of potentially relevant documents, including in particular the Applicant's conveyancing file. I therefore heard provisional closing submissions from the parties, before adjourning the hearing so that a copy of the file could be provided to the Respondent. I subsequently gave directions which afforded the Respondent the opportunity to produce and rely upon any documents within that file which it considered to be of relevance to the issues in the

case. Pursuant to those directions, the Respondent has filed a further witness statement of Mr Thomas, dated 6th December 2017, which exhibits a number of documents from the Applicant's conveyancing file. The Applicant has been afforded an opportunity to object to that witness statement being adduced into evidence and / or to respond to its contents, but she has done neither. That is probably because she and her advisors take the view (as I do) that the contents of Mr Thomas' most recent witness statement do not advance the Respondent's case.

7. For the reasons that I give below, I shall direct the Chief Land Registrar to give effect to the Applicant's application to cancel the Respondent's unilateral notice as if the Respondent's objection had not been made. In reaching the decision that I have, I have admitted into evidence and taken account of Mr Thomas' witness statement of the 6th December 2017, together with its exhibits.

#### **The Alleged Agreement Relating to the Premises Licence**

8. The Applicant was at all material times the registered proprietor of the property, which was registered at HM Land Registry under title number AV215418. The property was operated as a public house.
9. The Applicant marketed the property for sale through estate agents called Christies in 2014. The property attracted little interest, and in due course she instructed new estate agents (Morgan Beddoe) in Christies' place. On Morgan Beddoe's advice, the Applicant put the property up for sale by auction.
10. The auction took place on the 30th April 2015, and the property was knocked down to the Respondent.<sup>1</sup> The sales memorandum which was completed immediately following the auction made clear that the agreement was '*subject to the conditions of sale so far as they apply to the lot*'. The conditions of sale which were incorporated into the contract were (a) Special conditions of sale for sale by auction by reference to the RICS Common Auction Conditions (3rd Edition) ('the Special Conditions') and (b) the RICS Common Auction Conditions (Edition 3) ('the Common Conditions').
11. The Special Conditions made clear (a) that the completion date was to be the 9th July 2015 and (b) that Common Condition G15 (which deals with transfers as a going concern) was not applicable. The Common Conditions contained provisions which entitled the vendor to serve a notice to complete in the event of the purchaser's failure to complete by the completion date and, in the event of failure to complete by the date of expiry of that notice, to terminate the contract and keep the deposit.
12. There is nothing in these written terms and conditions to support the Respondent's case that a contractual agreement was reached between the parties to the effect that the Applicant would either transfer, or consent to transfer, the premises licence relating to the property to the

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<sup>1</sup> The memorandum of sale shows that the Respondents' director, Mr Michael Anthony Thomas, was (together with the Respondent) named as the buyer. But it was common ground between the parties that this was an error, and that the Respondent was always intended to be the purchaser.

Respondent. In fact, all of the indications within the written terms and conditions are to the contrary. The provisions of the Common Conditions which might have been applicable to a sale of a going concern had been specifically excluded. Nor did the written terms contain any Special Conditions of the sort that one would expect to find in the case of the sale of a business. There was not even a Special Condition which required the Applicant to transfer, or to consent to transfer, the premises licence relating to the property to the Respondent.

13. To support its claim that there was an agreement to the effect which I have described in paragraph 3 (above), the Respondent is therefore forced to rely upon discussions which are said to have taken place with the Applicant, during the course of which she is alleged to have indicated her preparedness to transfer the premises licence to the Respondent. In the case of most contracts for the sale and purchase of land it is difficult, if not impossible, to look for agreed terms outside the parties' written agreement because of the provisions of s.2 of the Law of Property (Miscellaneous Provisions) Act 1989. But, because this was a sale by auction, it is common ground that the formalities which are normally required for an agreement for the disposition of an interest in land are not required (see s.2(5) of the 1989 Act). Therefore, if a concluded oral agreement was reached for the Applicant to consent to the transfer of the premises licence, and if that oral agreement formed part of the agreement for the sale and purchase of the property (whether because it was an original term of the contract, or because there was an agreed variation of the original terms of the contract), then a breach of that oral agreement might provide the Respondent with grounds for arguing that the Applicant was not entitled to serve notice to complete and / or to terminate the contract.
14. Within its Statement of Case, the Respondent relies upon two meetings at which agreements are said to have been reached relating to the transfer of the premises licence. They are:
  - a) a meeting which is said to have taken place between the Applicant and the Respondent's representatives at some (unspecified) time prior to the auction, at a time when the property was being advertised for sale by Christies, and;
  - b) a meeting which took place at some (unspecified) time after the date of the auction.
15. It appears from the written decision of Judge Rhys that, at the time of the hearing of the strike out application, Mr Thomas told Judge Rhys that there had been three meetings at which the transfer of the premises licence had been discussed:
  - a) a meeting which took place at some time prior to auction, at the time when the property was being marketed for sale by Christies;
  - b) a meeting which took place on a date between the date of auction (30th April 2015) and the completion date (9th July 2015);
  - c) a meeting which took place on the 10th July 2015.
16. At the hearing before me, evidence was given in relation to each of the three meetings to which I have referred in paragraph 15 (above). I will consider the evidence relating to each of these alleged meetings in turn.

### The First Meeting

17. It emerged from the evidence at trial that, whilst the property was being marketed for sale by Christies, the Respondent's Anthony Thomas had visited the property, where he had met and spoken to the Applicant. The witnesses were uncertain about precisely when this meeting had taken place, but the Applicant and Mr Thomas were agreed (a) that it had been at a time when Christies were marketing the property and (b) that this had probably been at some time in late 2014 (Mr Thomas thought that it was in October 2014, and the Applicant thought that it had been in October or November).
18. Within the Respondent's Statement of Case, the Respondent had asserted that '*[a]t the viewing the Applicant had confirmed that a consent to transfer the premises licence would be provided to any purchaser.*'. But, during cross examination, Mr Thomas' evidence was to a different effect. It was put to him that no agreement had been reached, at that viewing, about a premises licence. Mr Thomas agreed with that proposition, explaining that the only purpose of the viewing had been so that he could be shown around the property.
19. There was no evidence of any other meetings or discussions between the Applicant and the Respondent prior to the date of the auction. Accordingly, on the basis of Mr Thomas' oral evidence, the Respondent cannot establish that any agreement was reached in relation to the premises licence at any time prior to the date of the auction. I should add that, even if there had been evidence of discussion of the premises licence at a meeting which took place in about October 2014, the Respondent would have faced an uphill struggle trying to persuade me that such a discussion should have given rise to a contractual term which formed part of a formal contract which was made as the result of a sale of the property at auction, through different estate agents, some months later.

### The Second Meeting

20. The second meeting is alleged to have taken place between the date of the auction and the contractual completion date. Here, there was a major conflict of evidence between the parties. Whilst the Respondent asserted that there had been a meeting at which the premises licence had been discussed, the Applicant denied that there had been any meeting between the parties after the date of the auction, until the meeting of the 10th July 2015 (to which I refer below).
21. In support of its assertion that this meeting had taken place, the Respondent relied heavily upon an email which appeared to have been sent by Nicholas Calfe of Christies to a recipient who was identified on the face of the email only as 'Anthony' (presumably Anthony Thomas, since the document was exhibited to the Respondent's Statement of Case). The email was dated '1/7/2015'. In the email, Mr Calfe had written:  
*'Further to our telephone conversation today, please find enclosed plans for the Jamaica Inn, Loise Harris is the owner and she will show you around at 2.00pm ...'*
22. Although adamant that a meeting had taken place on the 1st July 2015, Mr Thomas was unable to give any direct evidence of who had attended at the meeting or what, precisely, had been

discussed. Even when his recollection was probed under cross examination, his evidence was very general. The fullest evidence that he was able to give was when he said simply that '*[s]o far as we are concerned, we had a meeting on the 1st July; we said that it was agreed by us that we needed the premises licence in order to raise the monies. It was agreed so that we could get completion done.*'

23. For her part, and despite the content of the email, the Applicant had no recollection of a meeting having taken place on the 1st July 2015.
24. It was put to Mr Thomas, during cross-examination, that the email to which I have referred might have borne a US style date, and that therefore that the date upon which it was sent was the 7th January 2015, rather than the 1st July 2015. Mr Thomas did not accept that that was the case. Whether or not that is the correct explanation for the apparent date of the email, I am entirely satisfied that something has gone wrong with the date on the email (ie. that it was not sent on the 1st July 2015), and also that there was no meeting between the Applicant and the Respondent the 1st July 2015. This is for the following reasons:
  - a) the Applicant and Mr Thomas were clear in their evidence that their introduction through Christies resulted in a meeting which took place in October or November 2014. It is possible that their recollections were mistaken to the extent that that meeting took place in early January 2015 (which would be consistent with the view that the email contained a date in US format), but it is very unlikely that the meeting took place as late as July 2015, particularly given that:
    - i) on the Applicant's evidence (which was not challenged on this point) Christies' retainer had been withdrawn, and Morgan Beddoes had been instructed in their place, well before the auction on the 30th April 2015;
    - ii) the property had been sold at the auction on 30th April 2015, so that even if Christies had remained involved as estate agents after that date (which is contrary to the evidence in any event), it is very unlikely that they would have been arranging viewings for prospective purchasers, and equally unlikely that the Applicant would have been conducting such viewings.
  - b) Mr Thomas was not able to provide direct evidence of having attended or participated in a meeting on the 1st July 2015 beyond the very general evidence that I have already described;
  - c) contemporaneous correspondence between the parties' respective conveyancing solicitors contains no mention of such a meeting having taken place, nor of an agreement having been reached on the 1st July 2015 in relation to the premises licence. That is despite the fact that the parties' solicitors were, in early July 2015, discussing the issue of the premises licence. In fact, the exchanges of correspondence suggest very strongly that no such meeting had taken place, and that no such agreement had been reached. The Respondent's solicitors (Hepburns) wrote to the Applicant's solicitors (Veale Wansborough Vizards) on the 1st July 2015 seeking confirmation that the premises licence would be transferred on completion. The response that they received on the 7th July 2015 was that the Applicant was '*willing to consider transferring*



*the licence, but first wishes to know how much your client is willing to pay for this.*'. Hepburns' response of the 8th July 2015 indicated that the Respondent *'is certainly not prepared to pay any money for [the Applicant's consent to transfer the premises licence]*'. There was no suggestion, within Hepburns' email of the 8th July 2015, that an agreement had already been reached for the transfer of the premises licence. If such an agreement had been reached, then one would have expected Hepburns to have protested loudly and clearly that the Applicant was resiling from a promise which she had previously made to the Respondent.

25. I conclude, therefore, that there was no meeting between the Applicant and any representative of the Respondent on the 1st July 2015, and I reject the Respondent's claim that an agreement was reached on that date relating to the transfer of the premises licence.

#### The Third Meeting

26. The final meeting upon which the Respondent relies is one which took place on the 10th July 2015. It is common ground that this meeting took place, but there is a disagreement about what agreement was reached. Before I turn to consider the parties' competing positions, I will consider the context in which the meeting took place. That is something that has become clearer as a result of the Respondent having exhibited to Mr Thomas' most recent witness statement an attendance note, dated 9th July 2015, of telephone advice given by the Applicant's solicitors to the Applicant on that date.
27. The exchanges of solicitors' correspondence to which I have already referred reveal that, by the 8th July 2015, the parties' solicitors had failed to reach any agreement about whether there should be a transfer (or a consent to transfer) the premises licence, and if so on what terms. The parties were, therefore, deadlocked and there appeared to be a significant risk that completion would not take place because the Respondent could not draw down the funds required to pay the completion monies.
28. In light of the impending completion date, the Applicant took advice from her solicitors about the courses of action which were open to her, and her discussions with her solicitors are recorded in some detail in the attendance note of the 9th July 2015. The opening paragraph of the attendance note records that the Respondent had made arrangements to meet with the Applicant on the following day to discuss the premises licence. The attendance note then goes on to record that the Applicant was told by her solicitors that it was open to her to serve notice to complete, and that if the Respondent failed to complete within the following 10 day period, she would be entitled to terminate the contract and forfeit the £35,000 deposit which had been paid by the Respondent. It appears from the attendance note that the Applicant was in some financial difficulty at this time, and that the property was at risk of repossession. The Applicant appears to have been attracted by the idea of terminating the contract and forfeiting the deposit: she believed that she would be able to sell the property again for the same price, or perhaps even for a higher price. The £35,000 therefore represented a significant potential windfall for her. Apparently on this basis, she instructed her solicitors to serve notice to complete.

29. The Applicant's solicitors' response was to warn the Applicant that her mortgagee might take a dim view if she was to serve notice to complete and terminate the contract. In response to this advice, the Applicant contacted her mortgagee, and she was told by them that they required a payment of £2,000 (presumably in respect of arrears) by the 13th July 2017. The Applicant communicated this information to her solicitors, and reiterated that her instructions were to serve notice to complete. The notice to complete was sent by her solicitors, on the same date, by next-day recorded delivery.
30. I turn, now, to consider the evidence of what precisely was agreed at the meeting on the 10th July 2017. The Applicant's written evidence (upon which she was not challenged) was that the meeting was attended by Mr Thomas and his infant daughters. She said that Mr Thomas made it clear to her that the transfer of the premises licence was critical for the release of the completion monies, and that they had accordingly reached agreement that she would transfer the premises licence if Mr Thomas paid her £2,000 by 13th July 2015, and also reimbursed her costs of storage and serviced accommodation that she had had to move into as a result of the Respondent's failure to complete on the 9th July in accordance with the contract. It was her evidence that Mr Thomas had said that he would pay these figures to her directly, without the involvement of solicitors.
31. Mr Thomas had not given any detailed written evidence of the meeting of the 10th July 2017. But in his oral evidence he said '*[a]t the meeting it was agreed [that in return for the grant of the premises licence] we would meet certain expenses. We said we would meet them. It was hotel accommodation - around £2,000. I think we agreed a figure on the day. I think that we were going to pay them in or around completion. We certainly weren't going to pay them before the transaction occurred.*'
32. Neither witness suggested that there had ever been any payment of any sum of money pursuant to the agreement which they described.
33. I have no hesitation in preferring the Applicant's account of the agreement that was reached on the 10th July 2017, for the following reasons:
- a) her evidence in relation to these issues was clear, precise, and unchallenged;
  - b) in contrast, the evidence which was given by Mr Thomas was far more vague. It was quite clear from the manner in which he gave his evidence that he did not have a precise recollection of the agreement that had been reached on the 10th July 2017;
  - c) the Applicant's account of the agreement fits with what is now known about (i) her appreciation of the strength of her position, and the £35,000 windfall that she believed that she was potentially entitled to receive, and (ii) her mortgagee's demand for payment of £2,000 on or before the 13th July 2017.

#### The Consequence of the Oral Agreement of the 10th July 2017

34. Given the oral agreement which I have described, the next question which arises is whether the consequence of the Applicant having entered into that agreement is that she was somehow

prevented from exercising her contractual right, under the Common Conditions, to terminate the contract for the sale and purchase of the property upon expiry of notice to complete.

35. It seems to me that the only way in which the Respondent could succeed in such an argument would be if it could establish:

- a) that there was some ancillary or implied agreement that the Applicant would not rely upon the notice to complete which she had instructed her solicitors to serve the previous day, or;
- b) that:
  - i) the Respondent had paid the sums due under the agreement of the 10th July 2015;
  - ii) therefore the Applicant had become obliged to transfer (or to consent to transfer) the premises licence to the Respondent, but;
  - iii) in breach of the agreement of the 10th July 2015 she had failed to do so, and;
  - iv) that this amounted to a repudiatory breach of the contract for the sale and purchase of the property by the Applicant, so that she was not entitled to terminate the contract when she purported to do so.

36. The possibility which I have described in paragraph 35(a) has not been alleged by the Respondent and could not, in any event, be substantiated on the evidence. In fact, it is not even clear on the evidence that the Respondent had received the notice to complete, or that it was aware that the notice had been sent, at the time when the meeting of the 10th July 2015 took place.

37. As for the possibility which I have described in paragraph 35(b) above, the Respondent's case falls at the first hurdle, because there is no evidence of any payment having been made to the Applicant pursuant to the agreement of the 10th July 2015. Accordingly she cannot have come under any obligation to transfer (or to consent to transfer) the premises licence the Respondent.

38. I should add that, even if the parties' agreement had been that which was described by the Respondent, I would not have concluded that the effect of the agreement was to deprive the Applicant of her existing contractual rights under the contract which had been concluded at auction for the sale and purchaser of the property. In other words I do not accept that the effect of the agreement which is alleged by the Respondent would have been to prevent the Applicant from terminating the contract in circumstances in which she had not transferred (or consented to transfer) the premises licence to the Respondent. I regard it as significant that the parties deliberately chose not to inform their conveyancing solicitors of the agreement that they had reached in relation to the premises licence. In circumstances in which both parties had instructed conveyancing solicitors acting for them in connection with the sale and purchase of the property, and in circumstances in which those solicitors had been involved in negotiations over the premises licence (see the correspondence which passed between them between the 1st and 8th July 2015), the decision of the Applicant and the Respondent to deliberately keep from those solicitors their agreement relating to the transfer of the premises licence is, in my view, a clear indication that their supplemental agreement was not intended to impact upon their respective rights and obligations under the contract for the sale and purchase of the property. Instead, I take the view that they regarded the agreement in relation to the premises licence as a free-standing agreement

for the transfer (or consent to transfer) of the premises licence upon payment of certain monies to the Applicant.

#### Vacant Possession / Ability to Complete

39. The Respondent's next argument is that the Applicant was not ready, able and willing to complete the sale and purchase of the property at the time of service of the notice to complete, nor at the time of its expiry, and accordingly that her purported termination of the contract was ineffective.
40. The Respondent relies upon two contractual provisions in particular. Common Condition G1.2 provides that '*[t]he lot is sold subject to any tenancies disclosed by the special conditions, but otherwise with vacant possession on completion*'. Separately, condition G7.2 of the Common Conditions provides that a person giving notice to complete '*must be ready to complete*.' The Respondent's Statement of Case conflates these two separate obligations, and complains of '*the Applicants failure ... to remove their fixtures and fittings [which] represented a breach of contract, which meant that they were not ready and able to complete when they served their notice to complete, or when they subsequently terminated the contract*.'
41. Before turning to consider the scope of these contractual obligations, it is worth considering the detail of the Respondent's complaint. It was apparent from Mr Thomas' witness statement that the Respondent's complaint related to a failure by the Applicant to remove some '*items*' from the property prior to sale. He did not describe what items he said had been present, nor when. The Applicant, in her witness statement, addressed this issue by considering what items might have remained on the property at the time when Mr Thomas visited on the 10th July 2015. She said that the only item that remained on the property on that date was a gas cooker. Her evidence was that a gas engineer had been booked to carry out the disconnection of the cooker, but that she had cancelled his appointment when she heard that the Respondent would be unable to complete. At trial, the Applicant's evidence on this issue was not challenged. When Mr Thomas gave evidence, he asserted that '*there was more than just a cooker*' at the property at the time of his visit, but he gave no evidence of what else had been there.
42. In the absence of any particularised evidence from the Respondent of the existence of appliances and chattels at the property on the 10th July 2015, and in circumstances in which the Applicant was not challenged about her evidence that the cooker was the only remaining appliance (and nor was she challenged about the explanation which she gave for the continued presence of the cooker), I accept the Applicant's evidence that the only item remaining on the property on the 10th July 2015 was the cooker. I proceed on the basis that the cooker had also been present on the property on the 9th July 2015, when the notice to complete was sent by the Applicant's solicitors.
43. The remaining question is whether the continued presence of the gas cooker on the premises on the 10th July 2015 rendered the notice to complete invalid. It appears from Common Condition 7.2 that a notice to complete will not be valid unless the person who serves it is '*ready to complete*'. The Respondent's argument is, I infer, that the presence of the gas cooker meant that

the Applicant was unable to give vacant possession, and therefore she could not complete in the manner required by the contract.

44. An undertaking to provide '*vacant possession*' is generally taken to be an undertaking to give possession free of occupation by the vendor or third parties, or from any claim to a right of possession of the premises. Such an undertaking is, however, also capable of bearing a secondary meaning, so that vacant possession will not have been given if the physical condition of property is such that there is a substantial impediment to the use of the property or a substantial part of it. However, as the Court of Appeal made clear in Cumberland Consolidated Holdings Ltd v Ireland [1946] KB 264, it will be an exceptional case in which an obligation to give vacant possession will be found to have been breached by virtue of chattels left on the premises.
45. I have absolutely no doubt that, even if completion had taken place, the existence of a single oven at the property would not be regarded as a breach of the obligation to give vacant possession. The cooker would not amount to a substantial impediment to the use of the property or a substantial part of it. It was easily capable of being disconnected and removed, and it is a world away from the facts of Cumberland (in which the property was a warehouse, and the cellars extending under the whole warehouse were made unusable by rubbish including many sacks of cement that had hardened).
46. If I am wrong about that, I would nevertheless conclude that the fact that there was an oven on the property on the 9th and 10th July 2015 did not mean that the Applicant was not ready to complete as required by Common Condition 7.2. This is because, when considering whether a vendor is 'ready to complete', the focus is not upon whether they are poised and prepared to complete at a moment's notice, but rather it is upon whether they are in a position to complete the administrative and other arrangements necessary to enable completion to take place if the purchaser calls upon them to proceed to completion. The presence of a gas oven, which could be disconnected and moved if the purchaser intimated an intention to complete, was not something which in my view meant that the Applicant was not ready to complete.
47. For these reasons I reject the Respondent's argument that the Applicant was not ready to complete at the time of service of the notice to complete and / or at the date of termination of the contract.

#### Conclusions

48. For the reasons that I have given, I will direct the Chief Land Registrar to give effect to the Applicant's application as if the Respondent's objection had not been made.
49. The normal consequence of the outcome which I have directed is that the Respondent, as the unsuccessful party, would be ordered to pay the costs of the Applicant. I will, however, consider any submissions that the parties may wish to make, either in connection with the principle of who should pay costs, or in connection with the assessment of those costs. I invite the parties to file and serve upon each other their written submissions upon these issues, together with any other material upon which they wish to rely in connection with an assessment of costs, by 24th January 2018.

BY ORDER OF THE TRIBUNAL

*David Taylor*

Dated this 10th day of January 2018

