

Buy Out

Taylor –v- Crotty [3 October 2006] Court of Appeal

The Message:

A tenant's notice exercising an option to buy the freehold was held to be valid and the landlord as a result had to sell his freehold interest.

The Case:

Taylor and another (the landlord) granted a tenancy agreement to Judith and Janine Crotty (the tenant) in 2001. The tenancy agreement contained an option (or right) in favour of the tenant to buy the landlord's freehold interest in the tenant's property comprising stables and paddocks for £55,000. The right referred to the tenant having to give the landlord three months' written notice of her wish to buy the freehold.

In August 2002, the solicitors acting for the tenant sent a letter to the landlord. The letter constituted notice that the tenant wished to exercise her option to buy the freehold. The letter did not expressly refer to the period of three months' notice referred to in the tenancy agreement.

The landlord's reaction to receiving the notice was to refuse to accept the notice until the tenant settled an outstanding balance of £1,000. The landlord claimed that when the tenant took the tenancy agreement, the landlord agreed to allow her to defer paying £1,000 of the price until the tenant "got her riding school going". However, the landlord claimed that the tenant made no attempt to set up a riding school. He also alleged unauthorised sub-letting.

In response, the tenant's solicitors informed the landlord that they held a cheque for £1,000 payable to the landlord in full and final settlement of the money owed. It was also denied that there had been any sub-letting.

The £1,000 cheque was sent to the landlord but an impasse was reached between the parties. In July 2003 the tenant's solicitors sent a letter threatening proceedings as the option to purchase had not been honoured. Solicitors for the landlord responded by arguing that the option was invalid and unenforceable and had not been validly exercised. It was alleged that the tenant was in breach of obligations under the tenancy agreement by converting one of the stables into living accommodation and sub-letting.

Some two and a half years later the landlord began proceedings claiming possession of the property and rent arrears. In response the tenant counterclaimed, seeking to enforce the option to buy the freehold.

The Court of Appeal decided that the tenant's notice purporting to exercise the option to buy the freehold was valid, even though it did not expressly refer to the three month period. The tenant's letter containing the notice stated that the notice was given pursuant to the relevant clause of the tenancy agreement, which itself specified the three months. The landlord could not have been left in any doubt about the nature and purpose of the notice communicated to him.

The Court confirmed the lower court's decision that the landlord should be required to sell the freehold to the tenant. The landlord was unable to point to any prejudice that he would suffer as a result.