

## Press Release

Wednesday 30<sup>th</sup> May

### ***Earl Cadogan and Cadogan Estates Limited v 26 Cadogan Square Limited***

Contrary to what was believed to be the true position, the Court of Appeal surprised the leasehold enfranchisement world last week by deciding that a headlessee of a building comprising flats does not have the right to claim a lease extension on an individual flat under the provisions of the Leasehold Reform, Housing and Urban Development Act 1993. The effect of the judgment is to overrule the decision of the High Court in *Maurice v Hollow- Ware Products Limited* which had held that a headlessee was so entitled.

In the Court of Appeal, arguments were also put forward by the landlord under Article 1 of the First Protocol to the European Convention on Human Rights. The point did not have to be decided but Arden LJ nevertheless stated a provisional view that, had she decided against the landlord on statutory interpretation, then careful consideration would have been given to the argument that the legislation did not satisfy Convention requirements as to the quality of the law.

Damian Greenish, senior partner, Pemberton Greenish who acted for the landlord said, "This was a very good result for freeholders. In many ways it was a surprising result to the extent that most practitioners thought that *Maurice* had been correctly decided. The consequence of this judgment is that many headlessees who thought they could claim lease extensions of individual flats can now no longer do so. The human rights point is fascinating because I believe it is the first occasion on which a Court has indicated that enfranchisement legislation might fall foul of the Convention. I suspect that we will now be seeing further human rights arguments raised on the 1993 Act."

The Court of Appeal refused the tenant leave to appeal.

-ENDS-

**Notes to Editors:**

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