



Craig Fraser
41 Catesby Road
Radford
Coventry
CV6 3EU

Sent by email

Email sent to:
craigfraser10@outlook.com

Date
14 December 2018

Your ref
None

Our ref
R172LLQ

Proprietor/Applicant **Rachel Last**

Title number **WM336901**

Property **41 Catesby Road, Coventry (CV6 3EU)**

Dear Mr Fraser

I am writing further to your email communications dated 14 September and 3 December 2018, which have been passed to me to consider, as a Land Registrar and most senior lawyer in our Coventry office. I sincerely apologise for the delay making this reply while I have been investigating your complaint and due to my oversight in considering your first letter.

My colleague Emma Chattin dealt with the complaint raised in your email dated 9 May 2018, in her email to you dated 22 May 2018. She did not uphold your original complaint and, in her email, stated that if you remained dissatisfied and wished to take the matter further, you could ask us to review your complaint under the final stage of our complaints procedure. I am therefore treating your letter dated 14 September 2018 as a request for a final review of the decision to complete an application for registration of a transfer dated 9 June 2017. This deed transferred title number WM336901 (which I will refer to as "the registered title" in the remainder of this letter) from the joint names of Rachel Last and Craig Lawrence Fraser, to the sole name of Rachel Last, subject to the existing mortgage in favour of Coventry Building Society. The property comprised in the registered title is 41 Catesby Road Coventry CV6 3EU, (which I will refer to as "the property" in the remainder of this letter).

I am sorry that this matter continues to cause you distress and has led to you making a complaint to HM Land Registry. I will deal with the specific matters you have raised about the application process. Please note that I have examined all the relevant documentation and I have taken into account everything that you have told us. If I do not refer to any particular point raised by you, it is not because I have not considered it, but because I do not think it will help to explain my conclusions.

HM Land Registry
Coventry Office
PO Box 75
Gloucester
GL14 9BD

DX 321601 Gloucester 33

coventry.office
@landregistry.gov.uk

www.gov.uk/land-registry

HM Land Registry received an application dated 26 June 2017 from Band Hatton LLP. The application contained a transfer dated 9 June 2017, as mentioned above. That transfer was signed by Rachel Last, in her capacity of one of the joint registered proprietors of the registered title and Deputy District Judge Morrow Brown, pursuant to Section 41(2) of the Trusts of Land and Appointment of Trustees Act 1996. The Deputy District Judge signed the transfer in place of yourself, as the other joint registered proprietor, in accordance with a Court Order dated 23 May 2016 under Claim number COOCV234 in the County Court at Coventry. That application was completed with effect from 26 June 2017 and Rachel Last was registered as the sole registered proprietor of the registered title, subject to the legal charge dated 21 January 1994, in favour of Coventry Building Society.

There has been no refusal to provide you with any documents. We have explained to you how to obtain official copies of documents and other items and given you the link for these to be downloaded. I have checked our records and we have not received nor retained copies of any legal aid bill.

HM Land Registry have not received any payments, other than the fee applicable to the application. I suggest you contact the County Court at Coventry if you consider that you have not received any payments due to you, as ordered by the Court. I will deal with the other points raised in your complaint, in the same numerical order as set out in your communication dated 14 September 2018.

1. The application to register Rachel Last as sole registered proprietor of the registered title was completed in accordance with the normal principles of land registration law and procedure, as set out in the Land Registration Act 2002 and Land Registration Rules 2003 and general conveyancing procedure. Your name was not "unlawfully null and voided" from the registered title and HM Land Registry public records. The transfer was signed by Rachel Last and the Deputy District Judge, in the presence of independent witnesses and was in the appropriate form of deed used to transfer property ownership. The court proceedings led to the Court Order dated 23 May 2016 which gave the Deputy District Judge the power to sign the transfer deed in place of yourself. The transfer deed was effective to legally transfer the registered title at HM Land Registry to the sole name of Rachel Last. There was nothing unlawful about the effect of the deed and the subsequent application to effect registration at HM Land Registry.

2. As mentioned above, your name was not unlawfully removed from the registered title. There are no title deeds as such, and legal title is that which is registered on our systems at HM Land Registry. Your consent to the transfer was not required as this aspect would have been dealt with in the court proceedings in the County Court at Coventry. The Deputy District Judge was legally authorised to sign the transfer deed and your consent to the removal of your name from the registered title was not required. HM Land Registry should have sent notice of completion of the application to you at that time

and I note from our records that we did not do so. On behalf of HM Land Registry, therefore, I sincerely apologise for this omission. It should be noted, however, that the notification would not have altered the effect of the application to remove your name from the registered title.

3. I have dealt with the transfer to the sole name of Rachel Last in the above paragraphs. I have concluded that there was nothing unlawful or fraudulent with regard to the completion of the application. As I have stated above, the transfer was completed subject to the existing mortgage in favour of Coventry Building Society. You were not released from your obligations under the mortgage and this is a matter upon which I would suggest you take independent legal advice.

4. HM Land Registry are only required to examine the proper completion and signature of the deed that transfers a registered title and the application form to register the same, in accordance with the principles of land registration law and procedure set out in the Land Registration Act 2002. We are not required to investigate how any purchase money is paid between the parties to the transfer deed, nor whether vacant possession of the property is given, prior to recording a change of ownership.

5. A subpoena duces tecum is a court order requiring production of certain documents at a legal proceeding in court. Your email dated 3 July 2017 was not a subpoena duces tecum but a request for certain copy documents from HM Land Registry and not in relation to court proceedings.

My colleague, Mark Pugh, replied to your email of 11 July 2017, by an email giving you a link to the Land Registry web site at GOV.UK. Our Practice Guide 11 provides details of our practice and procedure for purchasing copies of documents held by HM Land Registry. My colleague's email listed the documents held by HM Land Registry which related to the application made by Rachel Last to register herself as sole registered proprietor. You were advised that copies of the relevant applications forms, OC1 and OC2, may be downloaded from our web site, which would enable you to obtain the documents held by HM Land Registry, upon payment of the appropriate fee(s).

6. I have apologised that we did not notify you of completion of the application on 26 June 2017. I would assume that you were made fully aware, by Ms Last's solicitors, of the transfer of ownership and the payment of the agreed share of £65,000, for your interest in the property. I cannot comment upon the value of the property, nor the value of your share, which were determined by the court.

7. We have retained a copy of the transfer dated 9 June 2017, which states that it was signed by Deputy District Judge Morrow-Brown and was made in accordance with a court order dated 23 May 2016 in the County Court at Coventry. The deed and the subsequent application were prepared by Band Hatton LLP, a local

firm of solicitors, and there is no reason to doubt that these documents reflected the fact that court proceedings had taken place.

8. As I have stated in the above paragraph, the copy transfer that we have retained refers to the sum of £65,000 as being a half share of the value of the property. HM Land Registry have no knowledge as to when or how this half share was paid. You will need to contact the County Court at Coventry if you have any questions about payment of the half share in the property or obtain legal advice from a solicitor or other suitably qualified lawyer.

9. As mentioned above, you will need to contact the court or obtain legal advice if you have any questions about payment of the half share referred to in the transfer deed. Court proceedings are conducted entirely independent of HM Land Registry.

10. It is possible to transfer a share in a property subject to a mortgage. No repayment of the outstanding balance on the mortgage account need be paid to the lender. The terms of the mortgage, as contained in or referred to in the mortgage deed, would dictate whether or not the lender's consent to the transfer is required. The registered title did not contain any restriction entered by Coventry Building Society and HM Land Registry were not required to consider whether their consent to the transfer was required.

I can only recommend that you take legal advice if you have any concerns about payments made by yourself after transfer of your share in the property to Ms Last or discuss them with the Building Society.

11. HM Land Registry records make no mention of any payments towards the mortgage held by Coventry Building Society. I have dealt with your question regarding mortgage payments in the above paragraph.

12. The records held at HM Land Registry contain a copy of the transfer of your share in the registered title. Rachel Last is correctly recorded as being the sole registered proprietor of the registered title. The register of title is open to public inspection and the police may obtain an official copy thereof should they wish to do so. I cannot comment on any action taken by the police and if you have any concerns as to what took place on 26 October 2017, you should obtain legal advice from an independent lawyer.

13. I have dealt with the allegations that you make in this question in the above-mentioned paragraphs. HM Land Registry has correctly completed the application for registration that records Rachel Last as sole owner of the property and we do not have any involvement in the court proceedings, nor the preparation and completion of the documents that authorised the transfer of the registered title to Ms Last.

Every application is considered on its merits and on the basis of the

information provided. On this occasion, it is clear to me that careful consideration was given to the application before it could proceed. The information and comments made in your email do not lead me to conclude that we should not have accepted and completed the application.

I appreciate that you may be disappointed by the outcome of my review, however, I hope I have been able to explain the basis upon which the application was completed and the reason why I have come to the decision that I have.

HM Land Registry operates a two stage internal complaints procedure, and this constitutes our second and final response. It is not possible to ask anyone else in HM Land Registry to review the matter again.

The Independent Complaints Reviewer (ICR) and Judicial Review
If you remain dissatisfied and wish to take this further, then you can ask our Independent Complaints Reviewer (<http://www.icrev.org.uk/>) (the ICR), to carry out a review.

Please note the following important points about the ICR:

- The ICR will not consider a complaint more than six months after HM Land Registry has completed investigations and given a final response.
- The ICR cannot consider complaints about registration decisions or legal points or overturn a decision (for example, a decision that an objection to an application should be dismissed as groundless, or a refusal by the registrar to alter the register), although the ICR may consider a complaint about the manner in which such a decision was reached.
- The ICR cannot recommend that HM Land Registry pay compensation for losses caused by error or fraud but may recommend that a consolatory payment be made in appropriate circumstances.

However, you might still be able to go to court to ask for judicial review of the way the decision was made. If you are considering this possibility, I suggest you get legal advice as soon as you can because an application usually needs to be made within strict time limits.

The following GOV.UK website is helpful, which you can get by using the following link:

<http://www.gov.uk/government/organisations/land-registry/about/complaints-procedure>
<http://www.judiciary.gov.uk/you-and-the-judiciary/judicial-review>

Please note that all proceedings should be served on the Chief Land Registrar at Chief Land Registrar, HM Land Registry Indemnity and Litigation Group, PO Box 2079, Trafalgar House, 1 Bedford Park Croydon CR90 9NU.

If you would like to discuss this correspondence or require it in an alternative format please contact us, quoting our reference.

Yours sincerely

Geraint Davies
Land Registrar