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Quick Property Sale Ltd v Solaja & Anor [2025] EWHC 1257 (Ch) (28 May 2025): Trusting a Property Consultant You Just Met? What Could Possibly Go Wrong?

Quick Property Sale Ltd v Solaja & Anor [2025] EWHC 1257 (Ch)

Date: 28 May 2025

Judge: Master Clark

Key Words:

Specific performance, Contract for sale of land, Misrepresentation, Undue influence, Impossibility, Stakeholder, Constructive notice, Repossession, Equity of redemption, Section 2 LP(MP)A 1989

Summary

This Chancery Division judgment concerned Quick Property Sale Ltd (QPS) seeking specific performance of an agreement for the sale of a repossessed property. The Defendants, Mr and Mrs Solaja, resisted enforcement, alleging misrepresentation and undue influence by a third party, Mr Essien. Master Clark found the agreement unenforceable due to failure to comply with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 and undue influence, to which QPS was held to have constructive notice. The claim was dismissed.

Case Law/ Authorities:

1. Undue Influence & Misrepresentation

- ***Royal Bank of Scotland plc v Etridge (No 2)*** [2001] UKHL 44 – *Undue influence doctrine and constructive notice principles [85–106]*
- ***Barclays Bank plc v O'Brien*** [1994] 1 AC 180 – *Undue influence and constructive notice (via Etridge lineage) [implicit]*
- ***Allcard v Skinner*** (1887) 36 Ch D 145 – *Presumed undue influence; historic basis for relational pressure [inferred]*
- ***Credit Lyonnais Bank Nederland NV v Burch*** [1997] 1 All ER 144 – *Constructive notice and relational vulnerability (via Etridge lineage) [implicit]*
- ***CIBC Mortgages plc v Pitt*** [1994] 1 AC 200 – *Misrepresentation in mortgage settings (via Etridge lineage) [implicit -84]*

- ***National Westminster Bank plc v Morgan*** [1985] AC 686 – *Unconscionability and dominant influence (via Etridge lineage) [implicit -88]*
- ***Re Craig, Decd*** [1971] Ch 95 – *Inference of actual undue influence from facts [90]*
- ***Goldsworthy v Brickell*** [1987] Ch 378 – *Relationship of influence; authority cited on dominance and ascendancy [96, 99]*
- ***Zamet v Hyman*** [1961] 1 WLR 1442 – *Consent and independence under undue influence [104]*
- ***Inche Noriah v Shaik Allie Bin Omar*** [1929] AC 127 – *Independent advice and rebuttal of presumed influence (via Etridge lineage) [implicit -94–101]*

2. Property Law & Mortgages

- ***Duke v Robson*** [1973] 1 WLR 267 – *Vacant possession and equitable interests post-repossession [40]*
- ***National Provincial Building Society v Ahmed*** [1995] 38 EG 138 (CA) – *Risk of sale by mortgagee despite agreements by mortgagor [126]*
- ***Routestone Ltd v Minories Finance Ltd*** [1997] 21 EG 148 (Ch D) – *Bank not required to delay sale for imminent redemption [126]*

3. Contract Law: Impossibility & Stakeholding

- ***Manzanilla Ltd v Corton Property and Investments Ltd*** (unreported, 13 Nov 1996) (cited in *Gribbon v Lutton* [2002] QB 902**)** – *Nature of stakeholder obligations in sale deposits [111]*
- ***Gribbon v Lutton*** [2002] QB 902 – *Stakeholding in contract law and express contractual terms [111]*
- ***Alfred C. International GmbH v Itex Itagrani Export SA*** [1993] 1 Lloyd's Rep. 360 – *Contractual impossibility; parties disabling performance [107]*
- ***Universal Cargo Carriers Corp v Citati*** [1957] 2 QB 401 – *Circumstantial impossibility from default [107]*

Legislation:

Law of Property (Miscellaneous Provisions) Act 1989*, s.2 – A contract for sale of land must be in writing and contain all agreed terms. The agreement failed this test as it omitted the critical term that deposit funds could be used to redeem the mortgage [108–113].*

Legal Texts & Commentary:

- ***Chitty on Contracts*** (35th edn) – *Referenced for authoritative principles on misrepresentation and undue influence [84], [106–107]*
- ***Snell's Equity*** (35th edn) – *Discussed the "a factor" causation standard in undue influence doctrine [105]*
- ***Fisher and Lightwood's Law of Mortgage*** (15th edn) – *Clarified the mortgagor's redemption rights and limitations after repossession [136]*
- ***Smith, Leading Cases*** (13th edn), Vol II – *Quoted for the principle that a party may disable themselves from performance unintentionally [107]*
- ***Property Disputes Q&A*** (with Desmond Kilcoyne) – *Informal authority on re-entry and redemption rights post-repossession [60]*

Background

The Defendants, having fallen into mortgage arrears, were evicted in October 2022. They entered an agreement to sell their home to QPS, brokered by Mr Essien, a property consultant operating on commission. The deposit funds were supposedly to redeem the mortgage and allow the Defendants to re-enter the property, but no formal loan agreement was ever executed. The bank refused redemption without proper proof of ownership of funds and declined to deal with the buyer. The Defendants purported to rescind the agreement. QPS issued proceedings for specific performance.

Legal Issues and Analysis

1. **Compliance with Section 2 LP(MP)A 1989**: The agreement failed to include an essential term that the deposit was to be used to redeem the mortgage. This omission made the agreement unenforceable [paras 108–114].
2. **Misrepresentation**: The court rejected the claim that Mr Essien acted as QPS's agent. Therefore, any misstatements he made could not be attributed to QPS [paras 115–117].
3. **Undue Influence**: Master Clark found that Mr Essien exerted actual and presumed undue influence over the Solajas. The transaction called for explanation, and the Solajas lacked independent legal advice. Constructive notice was imputed to QPS [paras 118–132].
4. **Impossibility**: Due to the structure of the deposit and the absence of beneficial ownership, the Solajas could not perform their obligations under the agreement. The court accepted that this rendered the contract impossible to perform [paras 133–141].

Court’s Findings

1. The agreement did not comply with the statutory requirements under section 2 of the 1989 Act.
2. QPS failed to prove that Mr Essien acted as its agent; no actionable misrepresentation.
3. The agreement was obtained through undue influence, of which QPS had constructive notice.
4. Performance of the agreement was impossible due to the failure to pass beneficial ownership of the deposit.
5. The claim was dismissed.

Key Takeaway:

A sale agreement involving a repossessed property must strictly comply with section 2 LP(MP)A 1989. Transactions orchestrated through third parties, particularly under pressure on distressed homeowners, may give rise to undue influence. Where deposit structures do not align with the parties' true intentions, enforceability risks increase sharply.

Parting Thoughts

If ever a case were the legal equivalent of trying to put a fire out with a petrol can, this is it. A third-party broker with no visible means of accountability, a deposit arrangement that thinks it's a loan but never signs the paperwork, and a seller who no longer owns the keys to the kingdom. QPS asked the court to enforce a ghost of a contract. But the law, being the sober uncle at the wedding, doesn't dance with ghosts. The lesson? When your sale hinges on the cooperation of a mortgagee who's just repossessed the house, you'd better make sure the ink's dry on more than just the sales pitch.

#SpecificPerformance #UndueInfluence #Repossession #Section2LPMPA #Impossibility #ConstructiveNotice #StakeholderFunds #EquityOfRedemption #PropertyLaw #MortgageDisputes #HighCourt #ChanceryDivision #ConstructionLaw #LegalUpdate

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CIArb Adjudication Panel Member since 2006
CIArb Arbitration Panel Member since 2006
CIC Adjudication Panel Member since 2010
Law Society Panel Arbitrator
RIBA Adjudication Panel Member since 2018
RICS Adjudication Panel Member since 2006
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FIDIC Adjudication Panel Member since 2021
ICE Adjudication Panel Member since 2021
RICS Dispute Board Registered since 2013

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