Landlord and Tenant Act 1954
s.30(1)(g) – Landlord’s intention to occupy premises

When a protected tenancy of commercial premises is about to come to an end, the landlord with a need for premises for his own use will often consider whether he can obtain possession by opposing the grant of a new tenancy using one of the “hostile” grounds in s.30(1) of the 1954 Act.

The ground in question, which is available only to a landlord who has acquired his interest in the premises more than 5 years before the current tenancy comes to an end, requires evidence that the landlord intends to occupy for the purposes, or partly for the purposes, of a business to be carried on by him in those premises or as a residence.

The case of Patel v Keles that came before the Court of Appeal on 12 November arose from an application to terminate the tenancy made by the landlords of a small news agency in Tudor Street near the Inns of Temple, which had been occupied by the tenants since 1991. The landlords tried to oppose the grant of a new tenancy on this ground but failed to do so because their intention was deemed to be of insufficient substance to pass the high hurdle imposed by the Act.

There was no dispute between the parties to this case that the landlords had a realistic prospect of giving practical effect to their intention to run the business from the premises. However the judge held that the landlords were unable to show sufficient substance to their subjective intention of doing so.

Even though the landlords had undertaken not to use the premises for two years for any other business than as a news agency, the judge took the view that after the end of the two year period they were likely to sell or relet the premises. On the facts of the case this did not give rise to the necessary intention to occupy for a meaningful length of time.

The Court of Appeal concluded that the trial judge was entitled to come to this conclusion on the facts and they dismissed the landlords’ appeal.

Practical point: Section 30(1)(g) cannot be invoked by a landlord opposing the grant of a new tenancy under the Landlord and Tenant Act 1954 if the landlord’s interest in the property was purchased or created after the period of 5 years which ends with the termination of the current tenancy. There is no corresponding provision specifying the length of occupation that the landlord must envisage in giving evidence of its intention to occupy. The landlords’ counsel in this case suggested that the period must be “reasonable” but that it did not have to be as long as 5 years. The Court of Appeal was unwilling to suggest a minimum requirement. What would be appropriate would depend upon the facts of a particular case. However it is quite clear that any period of occupation must be more than short-term and that the anticipated period is likely to be an important factor in deciding whether the landlord has the requisite intention.

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