

Tenants' statutory right of first refusal (Mahmut and another v Jones)

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Property analysis: Anthony Radevsky, barrister at Falcon Chambers, who represented the respondents in Mahmut v Jones comments on a landlords' obligation to respect tenants' statutory right of first refusal under Part 1 of the Landlord and Tenant Act 1987 (LTA 1987).

Mahmut and another v Jones and others [\[2017\] EWCA Civ 2362](#)

What are the practical implications of this case?

Landlords should comply with their obligation to respect the tenants' statutory right of first refusal under [LTA 1987, Pt 1](#).

If a person purchases a building from a landlord who has not complied with the right of first refusal, and the tenants serve a purchase notice, the new landlord should comply with it. If he fails to comply with it, and a court order is made requiring him to convey the property to the tenants, if he does not, he cannot later claim that the tenants have lost their rights under [LTA 1987](#), by serving a notice on them under [LTA 1987, s 17](#). The case is a reminder to both landlords of residential or mixed-use property, and to residential lessees, of the importance of [LTA 1987](#) rights.

What was the background?

The landlord of a building containing residential flats sold the freehold to the commercial tenant of the ground floor. Although he had served a notice under [LTA 1987, s 5](#) offering the freehold to the tenants, he went ahead with the sale without waiting for them to accept the offer. The tenants served notice on their new landlord requiring him to sell them the freehold on the same terms. That notice was ignored, as was a default notice, as were court proceedings. The court ordered the landlord to sell the property to the tenants by a fixed date. The landlord did not comply with the order, and was in contempt. After a while the landlord served a purported notice under [LTA 1987, s 17\(4\)](#), asserting that the purchase notice should be treated as not having been served.

What did the court decide?

The District Judge and Circuit Judge in the Central London County Court, and the Court of Appeal, all held in favour of the tenants that the landlord was not entitled to serve an [LTA 1987, s 17\(4\)](#) notice. The court order was equivalent to a contract, which bound the landlord. In addition, the landlord was not entitled to take advantage of his own wrongful act.

Interviewed by Evelyn Reid.

The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor.