Falcon Chambers

Action on a speciality and property law: What does the recent Supreme Court decision on limitation in *THG v Zedra* tell us about limitation periods for claims under property statutes?

On 25 February 2026, the Supreme Court in *THG Plc v Zedra Trust Co (Jersey) Ltd* [2026] UKSC 6 gave its decision that there is no limitation period for a claim under sections 994 and 996 of the Companies Act 2006, the unfair prejudice petition provisions. In so doing it concluded that section 8 of the Limitation Act 1980, the 12 year limitation period for an action upon a speciality (often relied on in relation to statutory claims) did not apply, because "it is of the essence of an action upon a speciality that it is an action to enforce an obligation created by a deed or statute". To what property law statutes, and issues of whether there is a limitation period, might this decision apply?

One property statute is much discussed in the decision. The majority of the Supreme Court considered, but did not decide, that *Collin v Duke of Westminster* [1985] QB 581 was wrong in deciding that section 8(1) of the 1980 Act was the limitation period for a claim by a leaseholder who has served notice to acquire the freehold under the Leasehold Reform Act 1967 against the freeholder for enforcement of the freeholder's statutory obligation to transfer the freehold to him. In *THG*, the majority described that as, "based on the false premise that "the ancient and accepted meaning of 'specialty' [included] causes of action based on statute"". Instead, they considered, Section 8(1) applied to monetary obligations imposed by statute only. The minority disagreed, however, so there is plenty of room for further argument.

What about section 27A of the Landlord and Tenant Act 1985? That gives the First-tier Tribunal (Property Chamber) (in England) a jurisdiction to determine whether a service charge is payable, by whom, to whom, the amount, and the date by and the manner in which it is payable. A determination made on such an application is not an order to pay what the Tribunal determines. It is declaratory in nature (*Termhouse (Clarendon Court) Management Ltd v Al-Balhaa* [2021] EWCA Civ 1881). The underlying liability of the leaseholder is by reason of the lease. Thus there is no limitation period under section 8 or section 9 of the 1980 Act (the 6 year limitation for actions for sums recoverable by statute) for bringing a section 27A application (*Cain v London Borough of Islington* [2015] UKUT 0542 (LC)). That is consistent

with the *THG* analysis. Section 27A of the 1985 Act does not impose an obligation on anyone (and nor does section 19 in limiting reasonableness; it limits what can be included as relevant costs in determining the service charge payable).

What about the unfair relationship provisions in sections 140A-C of the Consumer Credit Act 1974, another statute referred in *THG*, in the survey of the relevant case law? In *Smith v Royal Bank of Scotland plc* [2023] UKSC 34 (discussed in *TBH* at paragraphs 84 and 220) for example. In that case, it was common ground that section 9 of the 1980 Act applied. The issue was at what date the cause of action accrued. In an unfair relationship claim, however, it is not the statute which imposes an obligation on the lender, if the unfair relationship is made out. It is the court exercising the jurisdiction it has been given by the statute. Thus, even though the court can order the lender to pay money to the borrower, where an unfair relationship is found, that does not mean there is a statutory obligation to pay money, or a sum recoverable by statute. The unfair relationship regime is like the unfair prejudice petition. The court is given a wide discretion as to the relief it orders, with a money judgment one option. Just as with unfair prejudice petitions, the limitation period, if any, cannot depend on the choice of relief sought in the pleadings, or indeed the decision the court makes once it has considered the claim (see *THG* in paragraphs 147 to 155). The complaint that leaving such a claim without a limitation period allows for stale claims is not a good one. Both unfair prejudice petitions and unfair relationship claims leave the judge with a discretion to make no order at all. Neither section 8 nor section 9 of the Limitation Act 1980 should apply to unfair relationship claims, following this reasoning.

How about the Party Wall Act 1996? Sections 1, 2, 3, and 6 all impose a statutory obligation on the building owner desirous of doing works caught by the Act (or, on one reading of section 2, desirous of doing those works and obtaining the benefits of the Party Wall process, such as rights of entry). If section 8 of the 1980 Act applies to non-monetary statutory obligations, then the 12 year limitation period appears to apply to any claim for breach of that duty. If not, then there is no limitation period. If the action is for specific performance for the obligation to serve a notice or an injunction to prevent works without it, then a delay will likely mean the court will make no such order, however. Any damages claim for a long past set of works may

similarly be difficult for the claimant, despite the lack of a like discretion in the court, because it will find it hard to reach the legal and evidential burden.

Section 7(2) of the Party Wall Act imposes an obligation to pay compensation. That seems to be caught, then, by section 9 of the 1980 Act, with a 6 year limitation, though the date from which the cause of action accrues (the date of loss or damage or the date of the surveyors determining the amount of compensation) is the subject of debate. See *K Group Holdings Inc v Saidco International SA* (2021, HHJ Parfitt, Central London County Court) in which the court decided that time ran from the former date.

Finally, what about that still relatively new statute, the Building Safety Act 2022? Sections 123 (remediation orders) and 124 (remediation contribution orders) seem to be like unfair prejudice petitions in that the sections themselves impose no obligations on anyone. It is the Tribunal which imposes an obligation, to do works in the case of section 123, and to pay money in the case of section 124. Thus even though neither has a range of outcomes in the sense of an unfair prejudice petition, it seems likely there is no limitation period. That does not seem problematic, however. A delay in bringing the application will be a factor in the implicit discretion in section 123 (as against discovery of the defects say), and the express just and equitable test in section 124 (as against the date of incurrence by the applicant of costs within the jurisdiction). In any event, in the case of section 123, the gateway to the making of an order against a specific landlord, that that landlord is required, "under the lease or by virtue of an enactment, to repair or maintain anything relating to the relevant defect" remains true as long as the relevant defect has not been remedied to the standard required in the lease or enactment.

The financial liabilities imposed by regulations 3, 4, and 5 of the Building Safety (Leaseholder Protections) (Information etc.) (England) Regulations 2022 are different. They impose a strict liability, where they apply. For example, regulation 3(2) makes the responsible landlord (a landlord who on 14 February 2022 was the developer or associated with the developer, or the successor in title to such a landlord) for a remediating landlord's costs of a relevant measure relating to a relevant defect (the remediation amount). Regulation 3(2) makes the responsible landlord "liable to pay L the remediation amount". That seems a statutorily imposed financial liability, thus a sum recoverable by statute, with a 6 year limitation period (from the later of the

date the remediating landlord was liable for the remediation amount and the coming into force of the regulations on 21 July 2022) under section 9 of the 1980 Act. It fits with the public policy against stale claims to have such a limit, since there is no discretion in regulation 3, and a limited right of appeal.

The decision in *TBH* has limited the application of section 8 of the 1980 Act beyond perhaps what was assumed to be its wide application. It will be interesting to see how the application of this new understanding works out in practice.

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25th February 2026