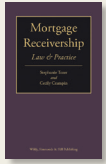


Book review

Mortgage Receivership: Law & Practice



Authors: Stephanie Tozer & Cecily Crampin
 Publisher: Wildy, Simmonds & Hill Publishing
 ISBN: 978-0854902521
 Pages: 534 pages
 RRP: £125

This book, the first of its kind to offer a sole focus on mortgage receivership, examines in detail the principles and practices specifically in relation to receivers appointed by mortgagees. In particular, Tozer and Crampin offer detailed analysis of current case law while seeking to provide answers to previously unanswered questions on historical cases and technical points. It is precisely this focused approach that makes this book stand out from its predecessors and will be of particular use to practitioners advising in this area.

It is clear from the detail into which this book delves that mortgage receivership in an area which requires greater consideration. It is reassuring to know it has been written by hands-on practitioners as opposed to academics producing another thesis, which makes it particularly useful. By setting out the history of mortgage law, it provides the reader context to the premise of the book, which is a good focal point when considering the fact that the power to appoint a receiver derives from the Law of Property Act 1925 (LPA 1925).

Throughout the text, the majority of points raised are accompanied by detailed footnotes which assist with guiding the reader to further research required where a topic is not covered in depth, reference to case law decisions and relevant statutory provisions. The clear and concise nature of the layout of each chapter, makes it accessible to the busy practitioner wishing to locate a particular point quickly, while also catering for the reader wishing to indulge in more detail in the vast ground that the book covers.

Key themes

The chapter on key themes looks in detail at deemed agency powers in mortgage deeds, examples of powers, construction of powers, powers conferred by the lender, and delegable statutory powers. Understanding the powers vested in receivers is central to a practitioner's ability to effectively advise their clients in relation to their claim both strategically

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and on technical points of law. It is well known that legal status of receivers has long given rise to controversy, as a result of the different capacities in which they might act. This chapter is therefore particularly relevant, given the confusion which at times arises when drawing a distinction between power and agency within this area. As the book explains, powers are what principals give to their agents, but someone given a power need not be an agent at all. Crucially, the book lays out in detail the powers granted to receivers and discusses this in relation to the lender, borrower and other third parties. This is vital practical advice when considering the issues which arise; for example, when the receiver is seeking to take possession from the borrower's tenants. It is this level of detail which is demonstrative of the depth with which this book explores its subject matter.

Receivers, lenders & borrowers: a ménage à trois?

Inevitably, the relationship between the receiver, borrower and lender can be extremely uncomfortable, and arguably one of the key elements for practitioners advising on mortgage receivership is to

understand each distinctive relationship and their overall interaction. These chapters are particularly well written and the book does well to dedicate a chapter to each relationship, including extending to that of the relation between the receiver and third parties.

Each section is helpfully broken down and includes useful commentary on the impact each relationship has on the other, for example, giving consideration to the impact that the interpretation of the contract between the receiver and the lender has on the relationship between the lender and the borrower.

Litigation: the how-to guide

As one would expect, the litigation chapter offers practical advice on how to conduct litigation in relation to mortgage receivership. Of particular value are the footnotes, which go into intricate detail including offering specific advice on where to find certain forms and giving recent case law examples along with advisory notes, which will certainly aid the specialist litigator undertaking contentious work. The ease of the layout of this chapter means it allows practitioners the ability to find exactly what they are looking for quickly, making it a go-to pocket guide, as opposed to a once read and then shelved manual.

Verdict?

The current prevalence of the buy-to-let market has seen a rise in the number of receivers being appointed within the residential sphere. As such, this book provides topical, practical advice which, although aimed at practitioners, could also be used by a lay person wishing to understand the basics of their rights and obligations when receivers have been appointed. From a point of law, it offers technical insight into previously unexplored territory; for example, the book acknowledges that the standard form of mortgage goes beyond that which has already been provided for by LPA 1925. This is indicative of the innovative approach this book takes to its subject matter. The book is clearly written by individuals who not only are experts within their field, but also have an obvious passion for their chosen subject matter, which is evidenced throughout the book. This will be a key text in every law office as a quick point of reference for the very busy practitioner.

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