



The cycle and effect of a restriction(s)

Paul and Jane Evans are registered as beneficial joint tenants of leasehold title EGL987654, 26 Matthew Street, London N8 8JP.

When the lease was registered on 6 June 1988, the following restriction was also registered:

“RESTRICTION: Except under an order of the registrar no disposition, other than a charge, by the proprietor of the land is to be registered unless a certificate signed on behalf of SA1 Developments of 77 Tawe Road, London EC7 8BH by its secretary or conveyancer is lodged that the provisions of clause 5 of the deed dated 7 July 1980 have been complied with.”

The effect of this restriction is that without the appropriate certificate stating that the provisions of clause 5 of the deed dated 7 July 1980 have been complied with, registration of any disposition by the proprietor of the land other than a charge cannot be completed.

9 February 2004 – severance of joint tenancy

Paul and Jane’s marriage has hit a rocky patch so they decide to sever their beneficial joint tenancy and hold as tenants in common in equal shares. They apply in form RX1 for a form A restriction (for the wording see

Fact sheet 3) to reflect their changed circumstances. The effect of this restriction is that if either Paul or Jane dies, the survivor will not be able to give a valid receipt for capital moneys and will have to appoint a new trustee to act with them should they wish to sell or charge the title or otherwise deal with it for value.

3 May 2004 – registration of charge with a charge restriction

Paul and Jane take out a charge with XYZ Loan Company. Because this is a charge, and both parties have joined in, it is not caught by the terms of either restriction. Included with the application to register the charge is an application in form RX1 to register a form P restriction as follows:

“RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated 3 May 2004 in favour of XYZ Loan Company referred to in the charges register.”

16 July 2004 – second charge is taken

Paul and Jane take out a second charge with ABC Finance. This charge is not caught by either the restriction in favour of SA1 Developments



or the form A restriction, but it is caught by the XYZ Loan Company restriction.

As ABC Finance cannot obtain the consent of XYZ Loan Company to the registration of its charge, it will have to protect its interest by either an agreed or a unilateral notice in forms AN1 or UN1 respectively.

The second charge in favour of ABC Finance contains an application, in form RX1, for a restriction. This is capable of being registered in addition to the notice of the charge by registering the following restriction in form N:

“RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by ABC Finance of 55 High Street, Anytown AN1 7BC or their conveyancer.”

Neither this restriction nor the agreed or unilateral notice is ‘caught’ by the restriction in favour of XYZ Loan Company which prohibits dispositions.

16 December 2004 – loan to second chargee repaid

Paul and Jane repay the loan to ABC Finance. ABC Finance, as restrictioners, should apply in form RX4 to withdraw the restriction registered in their favour.

If they fail to do so, Paul and Jane should lodge an application on form RX3 to cancel the restriction. As the application will be made by the registered proprietors of the land, rather than the restrictioner, Land Registry must serve notice on ABC Finance. In the absence of an objection the restriction will be cancelled from the register. ABC Finance should also apply to cancel/remove the notice, in form CN1 (for an agreed notice) or UN2 (for a unilateral notice) once the charge has been repaid. If they fail to do so Paul

and Jane should themselves lodge an application in form CN1 to cancel an agreed notice or in form UN4 to cancel a unilateral notice.

3 March 2005 – transfer not for value, Paul and Jane to Jane

Paul and Jane are getting divorced and agree to transfer the property not for value into Jane’s name only. The transfer will be caught by the restriction in favour of SA1 Developments and also by the restriction in favour of XYZ Loan Company.

In order to register the transfer to Jane they must comply with both restrictions and lodge a certificate that the provisions of clause 5 of the deed dated 7 July 1980 have been complied with regarding the SA1 Developments restriction and lodge the consent of XYZ Loans.

Following registration of the transfer to Jane, the form A restriction will remain on the register unless Jane can provide evidence that the trust has come to an end. This evidence will be the same as that set out in Fact sheet 3.

If the form A restriction is left on the register, Jane will not be able to give a valid receipt for capital moneys and therefore cannot deal with the property for capital money without appointing a co-trustee to act with her.