

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964**

**IN THE MATTER OF A REFERENCE**

**R/29/1992**

**BETWEEN**

**DAWSON CLARKE - APPLICANT**

**AND**

**PHILIP BLACK - RESPONDENT**

**Lands Tribunal for Northern Ireland - Mr A L Jacobson FRICS**

**Belfast - 26<sup>th</sup> July 1993**

This was an application under Section 24 of the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971 ("the 1971 Act") regarding the acquisition of the Respondent's leasehold interest in No 31 Portaferry Road, Newtownards, Co Down.

It came about in this way. The Applicant purchased the house sometime in 1967 for £3,250. He has lived there since that time with his mother and sister. He held the property under a lease dated 17<sup>th</sup> June 1908 for a term of 120 years from 1<sup>st</sup> November 1905 subject to a ground rent of £1.35p per annum. That rent was paid to a Mr John Campbell who was succeeded by the Respondent. The Respondent holds under a lease dated 10<sup>th</sup> April 1907 for a term of 120 years from 1<sup>st</sup> November 1906. He in turn holds from the freeholder, Lady Mairi Bury (the Mountstewart Estate).

The Applicant was minded to acquire the fee simple and issued a Notice of Intention under Section 2 of the 1971 Act which was served on the Respondent on 9<sup>th</sup> November 1992. No discussions or negotiations were possible because of some previous differences between the parties regarding a right of way.

In September 1992 the Applicant purchased the freehold estate for £535 from Lady Mairi Bury.

This reference to purchase the leasehold estate of the Respondent (the person entitled to the next superior estate) was made on 21<sup>st</sup> December 1992.

There was no appearance at this hearing by the Respondent.

Mr J David H Gaston LLB ACI Arb (of Gaston Graham, Solicitors) called the Applicant, Mr Dawson Clarke to give evidence.

Mr Clarke testified as to his purchase of the house, and that he had lived there continuously since purchase as his sole residence. He further testified that the property had been on the market for sale and the estate agent had obtained a willing purchaser for the amount of £44,000 (plus £1,000 for various carpets, curtains etc). The potential purchaser wished to buy the house in fee simple.

Mr Gaston submitted the following calculation of purchase price:-

Present ground rent	£1.35 per annum	
YP for 32½ years @ 10%	<u>9.54</u>	£12.87
<b>Add</b> Standing house value	£44,000	
Capital site value @ 10%	£4,400	
Reversion to modern ground rent @ 10%	£440	
YP for 1 year deferred 32½ years @ 11%	<u>0.297</u>	£13.07
Total purchase price	<b>£25.94</b>	

The Tribunal accepts that as at the date of making that calculation only 32½ years remained of the 120 years term of the lease, but at the date of this Reference 32 years 10 months remained. Little turns on this difference. The Tribunal also accepts that only one year remains of the superior lease when the 120 years term of the Applicant's sub-lease has expired.

The Respondent's solicitor had indicated that the Respondent is "happy to leave it to the decision of .... the Tribunal" but would wish to make representations regarding costs. Thus the Tribunal had not the benefit of an alternative calculation/valuation and has to do the best it can with that put into evidence by the Applicant's solicitor. That calculation follows the skeleton

path taken by the Tribunal in similar cases. Additionally the Standing House Value is the price that a purchaser is willing (and able) to give for the house if held in fee. The only adjustments required to be made by the Tribunal is the "fine tuning" of the rates per cent used in the calculation. Thus:-

Current Ground Rent	£1.35 per annum	
YP for 32½ years @ 9% (well-secured)	<u>9.975</u>	£13.47
Reversion to modern ground rent	£440 per annum	
PV of £1 deferred 32½ years @ 10%	.0452146	<u>£19.89</u>
		£33.36
	But say	<b>£35</b>

The Tribunal fixes the purchase price at £35.

There being no application for costs, the Tribunal makes no award as to costs.

**ORDERS ACCORDINGLY**

**MR A L JACOBSON FRICS**

**LANDS TRIBUNAL FOR NORTHERN IRELAND**

**6<sup>th</sup> August 1993**

**Appearances**

**Mr J David H Gaston LLB ACI Arb (of Messrs Gaston Graham, Solicitors) for the Applicant.**