Landmark CHAMBERS

The Interpretation of Property Instruments

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Siemens Hearing Instruments Ltd v Friends Life [2013] EWHC (Ch).

"...the Tenant may determine the Term on [23 August 2013] by giving the Landlord not more than 12 months' and not less than six months' notice, **which notice must be expressed to be given under section 24(2) of the Landlord and Tenant Act 1954**".

Lord Hoffmann in Mannai v Eagle Star [1997] AC 249:

> "If the clause had said that the notice had to be on blue paper, it would be no good serving it on pink paper, however clear it might have been that the tenant wanted to terminate the lease."

Sir Stanley Burnton in Newbold v The Coal Authority [2013] EWCA

Civ 584:

> "...it may be that even non-compliance with a requirement is not fatal. In all...cases, it is necessary to consider the words of the statute or contract, in the light of its subject matter, the background, the purpose of the requirement, if that is known or determined, and the actual or possible effect of non-compliance on the parties."

Arden LJ in 7 Strathray Gardens Ltd v Pointstar Shipping & Finance Ltd [2004] EWCA Civ 1669:

> "I have no difficulty, in principle, that a statutory requirement can be in part directory and in part mandatory."

Hong Kong Fir Shipping v Kawasaki Kisen [1962] QB 26.

“The failure to use the required wording made no difference at all. All that mattered was that there was no simultaneous request for a new tenancy in the form prescribed by section 26(3). Once [the break notice] had been served, section 26(4) precluded any later such request.

I therefore do not think that the incantation of the magic words was an indispensable condition; it was not something which gave the defendant necessary or even relevant information.”

Lord Neuberger's in Cusack v LB of Harrow [2013] UKSC 40:

> "...canons of construction have a valuable part to play in interpretation, provided that they are treated as guidelines rather than railway lines, as servants rather than masters.

“Although provisions relating to the exercise of an option are usually mandatory, any such rule is the court’s servant, not its master, and is not inflexible.”

“Where [a] notice is provided for by a statute or by a professionally drafted contract, and the draftsman has not provided, either way, for the consequence of non-compliance, one may reasonably assume that this is deliberate, and that it has been left to the court to decide; whilst it may go too far to say that there is a presumption, it is natural to conclude that it was intended that the notice should, at least in some circumstances, but not necessarily in all, survive non-compliance.”

The End