

**Welcome to Landmark Chambers'
Property in Quarantine Series Part 1
RTM Case Law: So Wrong that it's Right?**

The recording may be accessed [here](#).

Your speakers today are...



Justin Bates



Kimberley Ziya

Responsibility for management of common parts of multi-block estates following an RTM Claim

RTM Co.

- *Gala Unity* [2013] 1 WLR 988
- *Settlers Court* [2019] UKUT 243
- s.112(1), 2002 Act:
“appurtenances belonging to or usually enjoyed with the building or part or flat”
- Open to parties to reach an agreement as to management responsibilities

Freeholder (existing management co.)

- *Fencott* [2014] UKUT 27
- Significant practical difficulties especially on large and complex estates e.g. *Settlers Court*
- Other constructions of “appurtenant” and “self-contained” are available
- UT in *Settlers Court* recognised “far reaching” implications of *Gala*

Should a single RTM co. be permitted to bring a claim in respect of multiple blocks?

Yes

- UT in *Triplerose* [2013] UKUT 606
- *Fencott* (see above)
- Purpose of leg. = give LHs as much power as FHs
- Nothing in the Act expressly precludes such construction
- At least 16 previous FTT decisions & CA in *Gala*

No

- CA in *Triplerose* [2015] EWCA Civ 282
- Purpose of leg. = allow LHs to take over mgmt. of their block
- Proper construction of the Act and supporting Regs.
- Practical problems
- Analogy w/ 1993 Act claims

What is the status of pre-Triplerose, multi-block RTMs?

Business as usual

- *Alleyn Court* [2012] UKUT 74, [9]:
 - Valid counter-notice essential to disputing validity of claim
 - s90(2): no dispute about entitlement → acquisition of RTM on date in notice
 - s90(3): no counter-notice (or c-n admitting entitlement) = no dispute about entitlement

Open to challenge

- *Avon Freeholds v Regents Court* [2013] UKUT 213, [75]:
 - s90 assumes valid claim under s80
- *St Stephens Mansions* [2014] ULUT 541, [92]:
 - If premises don't fall w/in s72 then none of Chapter II has effect

Thank you for listening

© Copyright Landmark Chambers 2020

Disclaimer: The contents of this presentation do not constitute legal advice and should not be relied upon as a substitute for legal counsel.

London

180 Fleet Street
London, EC4A 2HG
+44 (0)20 7430 1221

Birmingham

4th Floor, 2 Cornwall Street
Birmingham, B3 2DL
+44 (0)121 752 0800

Contact us

✉ clerks@landmarkchambers.co.uk
🌐 www.landmarkchambers.co.uk

Follow us

🐦 [@Landmark_LC](https://twitter.com/Landmark_LC)
🌐 [Landmark Chambers](https://www.linkedin.com/company/landmark-chambers/)