

## KNOWSLEY HOUSING TRUST -v- PRESCOTT

Perrins Solicitors Key Case Commentary

### Area

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HOUSING LITIGATION

### Background

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Drug dealing in locality. Replacement of Postponed Possession Order with an Outright Possession Order by the High Court.

### Facts

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The Defendant was a joint tenant. In 2006 he was sentenced to eight years imprisonment for conspiracy to supply cocaine and amphetamines. The drugs were in a property half a mile from his home with no dealing occurring at the home. The County Court made a postponed Possession Order on the basis that the Defendant had been punished already by the Criminal Court, there had been no dealing directly or indirectly from the property and that the joint tenant, Mrs Prescott, was not involved. The High Court preferred the approach in *Sandwell & Hensley 2007*. Sandwell had made the point that a Court should only suspend an Order if there was cogent evidence which demonstrated a sound basis for the hope that the previous conduct will cease in the future.

### Conclusions/Judgment

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The High Court found Mrs Prescott's, the joint tenant, refusal to provide an explanation as to how her family's lifestyle was supported if not from the proceeds of drug dealing, together with the fact that she did not present herself at cross-examination and what she did know about her husband's activities were relevant in considering the making of an immediate Possession Order.

The Court also found it was irrelevant that the tenant had already been punished in the Criminal Court. There was no real hope the Defendant had mended his way. There was an absence of cogent or indeed any evidence to demonstrate a sound basis for the hope that previous conduct would cease.

Accordingly, the Postponed Possession Order was replaced with an outright Possession Order.

This supports the line of authorities from *Bristol City Council and Moussah* and *Sandwell and Hensley* that an outright Order should be made for serious criminal offences.

The fact the Defendant has been punished already by a Criminal Court is irrelevant to the Civil Court's discretion.

Landlords should also consider if there is no strong evidence to demonstrate the previous conduct had ceased that an outright Order is appropriate.

### Contact

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