

High Court Guidance on Charging Orders

The High Court gives Guidance on Charging Orders in Packman Lucas Ltd –v- Mentmore Towers Limited (1) Charles Street Holdings Limited (2)

By Ian Norman, 10 August 2010

- **The size of the debt compared with the relative value of the property charged is a consideration but should not ultimately determine whether or not an order for sale is made.**

In this case the court had made charging orders against two separate properties owned by Mentmore Towers Limited and Charles Street Holdings Limited. A charging order was entered against Mentmore Towers for the sum of £193,000 and Charles Street in the sum of £27,000.

The Claimant sought orders for sale in relation to both properties. The parties agreed on a minimum sale price for Mentmore Towers of £10 million and in view of an increase in prices since the valuation, the court ordered a minimum sale price of £16 million.

With regard to Charles Street, the Defendant contended that the value of the debt was too small relative to the value of the property. It also contended that an order for sale should not be made for this property, as a sale of the same was imminent.

In concluding the matter, the court decided that whilst it was a consideration, the value of the debt relative to the property should not be a determining factor. The court should consider what other enforcement options exist and if there are no other options, then an order should be made to protect the creditor, whilst steps should be taken to protect the Defendant by placing a minimum sale price over the property.

In this case an order for sale was not made in respect of Charles Street as a sale of the property was said to be imminent; however the Judge confirmed that had this not been the case, notwithstanding the size of the debt compared to the property he would have been prepared to make an order and may do so in the future should the property not be sold.

This case provides a valuable insight into the factors the court will consider when deciding whether or not to grant orders for sale enforcing charging orders. For a full copy of the judgment click here: <http://bit.ly/a8dm30>

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