Repairs and improvements: the bright and the blurred

Amanda Gourlay
Tanfield Chambers
One direction?

- Obligation to repair
- Obligation to pay for the repairs
  - Short term/periodic tenancies
  - Long residential leases
Ordinary English words

• Repair
• Renewal
• Replacement
• Alteration
• Addition
• Improvement
Considerations

• Condition of the premises at the date of grant of the lease
• Prospective life of the premises
• Length of the lease
• Nature of the defect
• Compliance with legislation
• Good practice
• Cost of the works
• Who is to pay for the works
Lister v Lane [1893] 2 QB 212

Lord Esher MR – “a different thing”
- House in Lambeth built on boggy soil on a timber platform
- Timber rotted & walls bulged
- Remedy: underpinning
- *Not repair having regard to the nature & age of the property*
• Wall without proper footings or damp proof course
• Rebuilt under the London Building Act 1894
• Repair: the wall could only be rebuilt in accordance with statute
Pembury v Landin [1940] 2 All ER 434

- 100 year old building
- Basement constructed without any waterproofing
- Remedy: asphalting the walls; building 4½” wall to keep asphalt in position; new concrete floor 4” deep
- Not repair
Brew Bros Ltd v Snax (Ross) Ltd [1970] 1 QB 612

Sachs LJ

• Repair of foundations
• Rebuilding flank wall
• Repair of drains
• Not repair
Hoffmann J

- Defectively constructed kicker joint allowed water into the property
- Remedy: new concrete slab with reinforcement to the upper side & inner concrete skin to the walls
- *Structural alterations and improvements. Not repair*
Specific items: windows

• *Quick v Taff Ely BC [1985] 3 WLR 981*
• *Mullaney v Maybourne Grange (Croydon) Management Co Ltd [1986] 1 EGLR 70*
• *Sutton (Hastoe) Housing Association v Williams [1988] 1 EGLR 56 (CA)*
Specific items: windows

- Minja Properties Ltd v Cussins Property Group plc [1998] 2 EGLR 52
- Wandsworth London Borough Council v Griffin [2000] 2 EGLR 105
- Craighead v LB Islington [2010] UKUT 47
Specific items: roofs

• *Elite Investments Ltd v TI Bainbridge (Silencers) Ltd* [1986] 2 EGLR 43
• *Postel Properties Ltd v Boots the Chemist* [1996] 2 EGLR 60
Improvements & service charges

• *Holding & Management Ltd v Property Holding & Investment Trust Ltd* [1990] 1 EGLR 65

• *Waaler v LB Hounslow* [2017] EWCA Civ 45
Thank you for listening

Amanda Gourlay
Tanfield Chambers
2-5 Warwick Court
London WC1R 5DJ
www.tanfieldchambers.co.uk
www.lawandlease.co.uk
@TanfieldLaw @lawandlease