AL-V1

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BRISTOL DISTRICT REGISTRY

CLAIM NO: 2BS90013

B E T W E E N :

MORTGAGE TITLE RESOLUTIONS LTD

Claimant

-and-

J & E SHEPHERD CHARTERED SURVEYORS

Defendant

JUDGMENT

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1. The relevant names and addresses are as follows-

   C – successors in title to GMAC, providers of sub-prime mortgages.

   D – a firm of surveyors.

   Jeremy Cattle – a surveyor employed by D.

   Mr Solgi and Mrs Sangi – the owners and mortgagors of the property.

   Mr Raine – expert valuer for C.

   Mr Gadsby – expert valuer for D.

   214 Old Birmingham Road (OBR), Bromsgrove – the property.

2. The owners purchased the property in 2003 for a price of £260,955. They did so by means of a mortgage with the Halifax. In 2006 they were seeking to remortgage the property. Acting through brokers (Primrose Associates) on or about 18th July 2006 they applied for a mortgage with C. The application is set out at page 21 and following of the bundle.

They were seeking to raise £400,000. D was instructed by C to carry out a valuation of the property for mortgage purposes. On 25th September 2006 Mr Cattle carried out such a valuation. He valued the property at £375,000. On 16th January 2007, the Claimants advanced £337,500 to the mortgagors. This was on the basis of 90% of the valuation provided by Mr Cattle. In about November 2009, arrears started to accumulate on that mortgage. Possession proceedings were commenced. On 17th March 2011 the property was repossessed. On 1st July 2011, the property was sold for £230,000. Accordingly, C suffered a total loss of £143,000 odd. The capital loss was in the order of £115,000.

3. C seeks to recoup part of its loss from D on the basis that the valuation carried out in September 2006 was done negligently and/or in breach of contract.

4. There is no dispute between the parties as to the nature and extent of the duty of care to be expected of a surveyor carrying out a valuation survey such as this. It is that set out by Eder J in **Capita v Drivers Jonas [2011] EWHC 2336**.

> "140 – Whether in the context of the Claimants' claims in contract or in tort, there was broad agreement as to the relevant general applicable principles-
>
> (i) The relevant duty is to exercise reasonable care and skill in all work carried out.
>
> (ii) Not every error will amount to a breach of duty.
>
> (iii) In order to succeed the Claimants must show that the advice and/or valuations provided by the Defendants were such that an ordinarily competent valuer could not have provided them exercising reasonable skill and care.
>
> (iv) The standard of care expected is properly defined as 'that degree of skill and care which is ordinarily exercised by reasonably competent members of the profession'.
>
> 141 – It is important to note and indeed to emphasise that the question whether or not the Defendants were in breach of duty must be considered at the time ... subsequent events and any suggestion of hindsight are irrelevant to the question of breach.
>
> 145 – ... it is necessary to consider the question of 'range'. ... the following propositions can be drawn-
>
> (i) The process of valuing real property has strong subjective elements – it is an art not a science and

not every error of judgment amounts to negligence. This leads to the concept of 'the bracket' or 'the permissible margin of error'.

(ii) It is a necessary pre-condition to liability that the final valuation figure is shown to be wrong, that is, outside the bracket.

(iii) Where the court is considering whether a valuation in itself is negligent, the Claimant must normally show, not only that the valuer fell in some way below the standards to be expected of a reasonably competent professional, but also that the valuation fell outside the range within which a reasonably competent valuer could have valued the asset.

(iv) In each case the court must assess what it regards as being the competent valuation and what it regards as the being the size of the permissible range."

Both experts in this case agree that a variation of plus or minus 10% around the valuation figure is a permissible variation and any valuation within those parameters could not be stigmatised as negligent. Likewise, both agree that the RICS appraisal and valuation standards booklet applies. That booklet is set out at page 74A and following of the bundle. I note paragraph 2.2 which sets out the role of the valuer – that paragraph provides-

"(2.2) – The role of the valuer, who must have knowledge of and experience in the valuation of the residential property in the particular locality is-

To advise the lender of the market value.

To advise the lender as to the nature of the property and any factors likely to affect its value ...".

5. On 25th September 2006 Mr Cattle valued the property at £375,000. It is that valuation which is said to be negligent. His witness statement is set out at pages 83 and following of the bundle. The relevant parts of that statement are as follows-

"8. My recollection of the property is that it was a large detached four bedroom, three reception dorma bungalow located in a very desirable residential location off Old Birmingham Road ...

9. When I inspected the property on 25th September 2006 I noted that the property had been extended in the form of a conservatory and the attic had been converted to form substantial habitable first floor accommodation. The creation of the attic rooms had significantly increased the total floor

area and accommodation to provide on the ground floor, kitchen, three living rooms, one bedroom, one bathroom, one WC and conservatory and on the first floor, three bedrooms and one bathroom.

11. I provided a valuation figure for the property in its condition as at the date of my inspection of £375,000 ... in reaching that figure I took into account the following three sets of comparable evidence which are documented in my site notes-

12. Comparable 1 – 93 Old Birmingham Road.

13. Comparable 2 – 307 Old Birmingham Road.

14. Comparable 3 – 9 Belle Vue Close."

6. When he was cross-examined he indicated that he carried out some five to six valuations per day. He makes site notes then produces the formal valuation later in the day. I will deal with his contemporaneous notes a little later in this judgment. He agreed that so far as the comparables chosen by him were concerned there were certain errors. Number 93 OBR was a four bedroom, two reception house and not a three reception house as described by him. Comparable number two was smaller than the property to be valued and he identified the wrong agents dealing with it. Comparable three was a house and not a bungalow. He took the view that a reasonable range of valuation in respect of the subject property was £350,000 to £380,000. He accepted that his valuation was at the upper end of his bracket. However he thought that a detached bungalow is worth some 20% more than a detached house and a detached house is worth 20% more than a semidetached house. So far as he was concerned number 214, the subject property was properly to be regarded as a four bedroom, three reception house. He also agreed that he lived in Bridgnorth and that Bridgnorth was over twenty miles away from Bromsgrove but said that he did have experience of this area. This has some relevance when we come to look at the valuation report provided by him.

7. The original site notes of Mr Cattle are headed "valuation inspection checklist". The original is set out at page 109 of the bundle and there is a typed copy at 116A of the bundle. His mortgage valuation report which is the document which he sent to the Claimants is set out between pages 89 to 92 of the bundle. Again he describes the accommodation as consisting of three living rooms, four bedrooms, a kitchen and two bathrooms. (I note that he also says that demand for this type of property and indeed property prices in this area were static – he accepted in evidence that this was an error. I do not myself attach any great importance to this error). The document concludes with a declaration-

> "I understand that (the Claimants) may raise finance on the security of the mortgage and I am aware that this valuation will accordingly relied upon ... in particular I acknowledge a duty of care ...
>
> I confirm that my firm is currently on the company's panel and the property is within the acceptable radius from our office as per instructions – twenty miles rural, ten miles urban."

It is obvious from the foregoing and is now no longer contested that the Claimant was entitled to rely upon this valuation. It is also clearly the case that the Defendant was warranting that the person carrying out the survey was based within the relevant geographical area. As a matter of fact Mr Cattle lived in Bridgnorth which is over twenty miles away from Bromsgrove. This probably did constitute a breach of the agreement. However, so far as I am concerned, its main relevance relates to the degree of knowledge and skill that Mr Cattle could bring to bear upon this valuation. He says that he was familiar with the area and had carried out valuations in this area on previous occasions. Be that as it may the question of his local knowledge is clearly highly relevant when we come to consider the adequacy or otherwise of his valuation. He cannot be described as "local."

8. Unlike many bungalows, this one had a first floor. As already set out, In his valuation report Mr Cattle describes the layout of the accommodation as follows – the ground floor consisted of a kitchen, three living rooms and one bedroom and the first floor consisted of three bedrooms and a bathroom. In other words as far as he was concerned (and as he accepted in evidence) this was a four bedroom, three reception room house. I am afraid that I have some difficulty in accepting this. The Claimant's expert has been in the property. He has produced a plan which is at 55A of the bundle. That would indicate that the first floor consisted of a landing, a shower room, a dressing room and a bedroom. Mr Raine at page 46 of the bundle describes the property as follows-

"The report describes the property as having four bedrooms and three living rooms. In my opinion the correct description is three bedrooms and two living rooms. The reason is that the first floor accommodation is built into the roof space of the original bungalow and comprises a landing plus two interconnecting rooms accessed from a single staircase. This cannot be classified as being more than one bedroom. As such the accommodation is three bedrooms, two on the ground floor and one on the first floor plus a dressing room and two reception rooms."

Accepting that one can configurate a bungalow in a number of ways this would mean that in order to have four bedrooms, one would only have one major reception room downstairs. If one had two bedrooms downstairs and one bedroom upstairs, this would still be a two reception room house. The current owners appear in fact to have two bedrooms on the first floor. Even on this basis though, one could not describe the property as consisting of four bedrooms and three reception rooms. This

mistake has some relevance when we come to consider the adequacy of the valuation.

9 As I have already indicated in his report he refers to three comparables. Both experts agree that proper comparables are the best way of valuing a property. However, both experts agree that Mr Cattle's first comparable namely 93 Old Birmingham Road was not apposite. I do not intend spending further time on that property. As for the other two comparables which he took, it is clear that at the time of his inspection they were still on the market – in other words they had not been sold as at the time of his inspection. The information about those properties he either got from phoning the selling agent concerned or from Rightmove.

In summary therefore, his local knowledge was not that good, his description of the property was not entirely accurate and of his three comparables, only two were capable of being of use.

10 Mr Raine, the Claimant's expert, has been valuing properties in this area for some 25 years or so. He is local to the area. . At page 38 of the bundle he describes the second of Mr Cattle's comparables, namely 307 Old Birmingham Road. This was sold for £360,000 on 21st September 2006. He describes the property as

> "A substantial four bedroom traditional detached family house that was marketed at a guide price of £325,000 and described as having scope for further modernisation and improvement. In my opinion this is a more valuable property than the subject notwithstanding that it may have needed some updating. It has a substantial front garden with double entrance driveway, a wide frontage and it is an attractive looking family house. In my opinion the sale price of £360,000 indicates a true market value of the subject property at £325,000."

At page 51 he deals with 9 Belle Vue Close, the other comparable relied upon by Mr Cattle. Mr Cattle in his witness statement at page 85 had described this property as

> "A 1950s smaller four bedroom detached house with detached garage located in a worse location on a residential estate predominantly surrounded by similar aged semi-detached houses located about half a mile from 214 Old Birmingham Road. The property was sold subject to contract at the time of survey ... I have since been informed that this sale eventually fell through ... and eventually resold and completed on 30th April 2007 for the lesser amount of £303,750."

Mr Raine at page 51 has this to say-

> "Mr Cattle opines that this is a worse location than the subject property and refers to it being on an estate. I would disagree and make the point that Hazelton Road and Belle Vue Close are well

> regarded residential locations that are certainly not inferior to the location of the subject property. On the contrary, I would anticipate that most potential buyers would prefer the location of 9 Belle Vue to that of the subject property."

He goes on to make the point that the ultimate sale in April 2007 for £303,750 would support a valuation of 214 at £325,000 not £375,000. Mr Gadsby the Defendant's expert valuer (at page 60) asserts that 307 Old Birmingham Road can be regarded as a good comparable. Likewise he considers that 9 Belle Vue Close "is probably a good comparable for 214 Old Birmingham Road, the subsequent sale price reflecting the poorer estate location in comparison with 214." In their joint statement at page 70 of the bundle the experts say this-

> "Both experts agreed that 307 Old Birmingham Road is a useful comparable. However Mr Raine opines that it supports a valuation of £325,000 and Mr Gadsby that it supports a valuation of £350,000. Both experts agree that this difference of opinion is accounted for by the judgment of each expert as to the relative merits of each property.
>
> There was disagreement in respect of 9 Belle Vue Close. Mr Raine disagreed that this property can be described as having an estate location and opines that Belle Vue is a well regarded location that is not part of an estate of houses and is certainly not inferior to the subject property. Also the property may have been sold subject to contract in September 2006 but did not complete until April 2007 at £303,750."

11 In my view there area number of reasons for preferring the evidence of Mr Raine when it comes to valuation. First he has extensive local knowledge based on the fact that he works precisely in this area. Second, his list of comparables seems to me to be compelling. He looked at a number of houses in the locality of 214. Let me mention them briefly. 110 Cottage Lane sold for £307,500. This was a five bedroom detached house on a modern estate. The sale was achieved in November 2006. It was on the market in August 2006 at £329,950. He says this

> "This property has the advantage of being in a cul-de-sac location away from a busy main road and although it is an estate house this small modern development is attractive and I could not envisage how a higher value could be attributed to the subject property. ... in this case the asking price of 110 Cottage Lane was £329,950. It is not unreasonable to foresee that the sale price would be the asking price or lower and in this case that was the outcome ... in my opinion the subject property should not have been valued at a price higher than the asking price of this property."

47 Green Slade Crescent. This was on the market in June 2006 at an asking price of £289,000. It eventually sold in July 2007 for £284,000. It

was a four bedroom detached house in a relatively quiet residential street. At 41 of his report he makes the telling point

> "In my opinion given the individuality of the subject property, a professional valuer seeking to establish its true market value should and would have had regard to the tone of values in the neighbourhood, the taking into account evidence of marketing prices at the date of valuation as one source of knowledge and evaluation. The opposite proposition, that being to disregard marketing prices in the area as irrelevant, is in my opinion an untenable position".

44 Lickey Rock, Bromsgrove sold in June 2006 for £343,000. It was an individual four bedroom detached house. It occupied a quiet location on a narrow lane. Mr Raine concludes that

> "I have inspected this property internally and it occupies a better plot and location – the accommodation is substantially better than this subject. In all respects this property was more valuable at the valuation date than the subject."

186 Old Birmingham Road is dealt with at page 43 of the bundle. It was a substantial 1920s detached house with four or five bedrooms. It was sold in March 2005 for £380,000. He says

> "It is recognised that this sale completed eighteen months prior to the valuation date but notwithstanding this it is helpful in assessing the value of more substantial properties in the immediate vicinity during that period. ... in my opinion this is a substantially more valuable family sized detached house and I would value the subject property between 15% and 20% lower."

At page 45 of the bundle he deals with 194 Old Birmingham Road and 206 Old Birmingham Road. 194 sold for £225,000 in February 2006 – it was a three bedroom semidetached house. 206 sold for £219,000 in October 2005. Again it was a three bedroom semidetached house.

12 For me the most telling comparable is 216 Old Birmingham Road, Bromsgrove. This is dealt with at page 44 in the bundle. It was sold in March 2006 for £225,000. It is

> "A three bedroom detached bungalow that is next door to the subject property. Based on the sale price I assume that this property required some modernisation. However it is helpful insofar as it is a bungalow and it is the neighbouring property".

Even allowing for the fact that it was a true bungalow in that there was no first floor and allowing for the fact that it may not have been in the best condition in my view a sale price of £225,000 only a few months before the subject valuation would indicate that there was something wrong with a valuation of £375,000 for the next door bungalow. I should

add that it is clear from the aerial photograph that 216 has a good sized garden.

13 The conclusions of Mr Raine are set out at page 53 of the bundle. He says –

> "13.1 The original valuation, site notes and subsequent witness statement from Mr Cattle do not recognise or acknowledge the negative features of the property, most particularly the disadvantages of the first floor loft rooms and the limitations to front driveway parking. The report misdescribed the extent of the valuable accommodation by stating it had four bedrooms and three living rooms whereas it should more accurately be described as having only three bedrooms and two living rooms.
>
> 13.2 The valuation report failed to recognise the limitations of the loft space accommodation, did not take into account the significant proportion of the floor area attributable to the loft rooms and did not differentiate the values between the higher value for the ground floor space and the lower value for the loft rooms.
>
> 13.3 In my opinion the comparable evidence that has been used to support the original valuation is inadequate – two of the three properties were only sold subject to contract at the date of the valuation and were not completed sales. I would support the use of marketing and sold subject to contract prices as secondary evidence of value but not as the primary source.
>
> 13.4 In my opinion as a direct result of 13.1 to 13.3 Mr Cattle failed to exercise reasonable skill and care in making the assessment and then forming an opinion of market value. In my opinion the valuation of £375,000 in September 2006 was above the non-negligent range of value.
>
> 13.5 In my professional opinion the value a reasonably competent surveyor would have attributed the property at the time of the original valuation is £325,000.
>
> 13.6 In my opinion an acceptable range of values within with a competent surveyor would have justifiably valued the property is between £300,000 and £350,000."

14 I have not overlooked the evidence of Mr Gadsby. At page 61 of his report he sets out a number of comparables. The first of those was described as 2 Lickey Grange. Purely inadvertently this property was slightly misdescribed by him in his report. He described it as a four bedroom detached house. It sold in August 2005 for £320,000. In his letter of 11th January 2013 at page 55C of the bundle Mr Raine points out in a letter to Mr

Gadsby that it looks as if he has made a mistake in respect of this property. In the letter he says

> "The Rightmove printout at your appendix 4 states that the property is a three bedroom detached house. ... the property was sold on 19th August 2005 at £320,000. ... in my opinion the correct details of 2 Lickey Grange support my opinion of the retrospective valuation of the subject property".

Another comparable relied upon by Mr Gadsby is 278 Old Birmingham Road. There is a photo at page 551 of the bundle. This is a detached house which sold in November 2005 for £366,800. He describes it as a substantial property that would provide a good comparable and was sold at a figure that would support the value on 214 Old Birmingham Road. He says "our experience is that bungalows within the Midlands area do tend to sell for a premium compared to similar detached houses and this is reflected in the value of 278 Old Birmingham Road". . Mr Raine does not accept this proposition.. And in fairness to Mr Gadsby he says at page 61 "we would make the general comment that bungalows do tend to achieve a slight premium over detached houses although this is difficult to precisely quantify." . However whatever the position may be neither expert in my judgment supports the assertion of Mr Cattle made by him in evidence to the effect that a detached bungalow commands a premium of 20% over a similar detached house. Reverting to 278 Old Birmingham Road in my view this is not a good comparable. The photograph would indicate a not unattractive detached house. Mr Gadsby concludes as follows-

> "12.1 In my opinion and in consideration of all the evidence available to me the value of the property as at original valuation date was in the sum of £350,000.
>
> 12.2 My opinion that the valuation for mortgage purposes on a remortgage of £375,000 from the original valuation report provided by the valuer was within an acceptable tolerance. For a property of this type we would anticipate that the range of values appropriate for the property fell between £315,000 and £385,000 at the appropriate date. This assumes that a margin for the valuation would be 10%."

15 For the reasons which I have already given and in particular the local knowledge of Mr Raine and the range of comparables provided by him I prefer his evidence to that of Mr Cattle or Mr Gadsby. In other words I accept his evidence that the true value as at the date of valuation of 214 was £325,000 with a range between £300,000 and £350,000. It follows that in my judgment the valuation by Mr Cattle fell outwith the range of permissible variation and is properly to be described as negligent.

16 My understanding of this case is that both parties accept that the appropriate figure for the assessment of the loss flowing from the negligence of the surveyor is £45,000. That being so I need not spend time discussing

that base figure further. The Defendants say that the lending policies of the Claimant was such that it is properly to be regarded as giving rise to a legitimate allegation of contributory negligence on their part. That being so I have to decide whether or not the lending in this case can be described as negligent and if so the causative potency of such negligence and its blameworthiness. I should say at this stage that I fully understand that, assuming contributory negligence were established the effect on quantum is to be assessed by reference, not to the total loss ie in excess of £120000 but by reference to the figure of £45000 ie by reference to the loss recoverable from the surveyors. I think that this was agreed between counsel.

17. I briefly set out in this paragraph the history of this transaction and what was done to check the creditworthiness of the borrowers. The application for the remortgage is dated 18th July 2006. The application is set out between pages 122 and 136 of the bundle. The form was clearly filled in by the brokers Primrose Associates. The male applicant described himself as a restaurant owner. At page 128 details of his accountants are given. At page 130 certain details of the applicant's credit history is given. That records that so far as the male applicant is concerned he had had a judgment recorded against him and that he had failed to keep up payments on a previous loan agreement. The existing mortgagees are shown as the Halifax. At page 134 there is set out three restaurants with which the applicant was involved. The applicant's accountants confirmed to the Claimant that the applicant had been trading for six years and that he was involved in the running of three restaurants in the Birmingham area. That reference is at page 153. The accountants were not asked to verify the profits/earnings of the applicants. A check by the credit reference agency Experian did reveal previous defaults on loans taken out by the applicants. The male applicant was not on the register of electors. In fairness to the Claimant they did query this. The answer which is to be found at page 196 of the bundle is that the male applicant had become disenchanted with British politics and felt it was not worthwhile his being on the roll. It has to be remembered that the applicant's were seeking a remortgage of 90% of the valuation. He self-certified that his annual earnings were £81,392. Other than the accountant having confirmed that he did indeed run the three restaurants the Claimant did not require to see any accounts. The mortgage that was being sought was to be of the interest only variety for a term of 25 years. The final mortgage offer was made on 25th October 2006. It is set out at page 220 and following of the bundle. Monies were finally advanced on 16th January 2007. The sum of £337,500 was advanced. It was in November 2009 that the mortgage account began to fall into arrears. Ultimately possession proceedings were commenced. The property was repossessed on 17th March 2011. It was sold by the Claimant as mortgagee in possession on 1st July 2011 for £230,000.

17 Accordingly as a matter of fact the Claimants did suffer a very significant loss on this transaction. This whole area though is now well travelled ground.-see Webb Resolutions v E Surv "012 EWHC 3653 (TCC) and Blemain Finance (2012) EWHC 3654 (TCC) ,both decisions of COULSON J

and the decision of HH Judge Keyser QC in Paratus (2011) EWHC 3307 (Ch). In our case, in the interests of proportionality and cost savings, I declined to allow so called expert evidence on lending policies-however it would be fatuous to ignore matters discussed in those cases, particularly as Coulson J was dealing with the same lenders, G Mac as were concerned in this case. I remind myself that the proper approach to the contributory negligence problem is that set out in paragraphs 74 and 75 of Webb-

"It is well to deal at the outset with the standard to be applied in the present case....The appropriate standard by which contributory negligence is to be judged was that of the reasonably competent centralised lender.

As already noted, when considering and applying that test, I should be wary of concluding that practices which were logical to centralised lenders at the time or were common amongst them, were in fact illogical or irrational."

I further remind myself that at paragraphs 76 to 86 the learned judge sets out a history of this type of lending and that he draws some relevant conclusions which I find compelling-

a) During the period with which we are concerned, self certified mortgages were commonplace. (I should add that this was well known to anyone who read the financial pages of the newspapers where such mortgages were described as "liars' loans"). Of itself, self-certification does not prove negligence.

b) The fact that lending institutions did not learn the lessons of history is again, of itself, not to be regarded as evidence of negligence-the collective amnesia might be regarded as shameful but it was just that namely "collective" and not therefore to be categorised as "illogical or irrational."

c) A loan to value ratio of 90% might be regarded as risky but again it was commonplace within this industry-see para 97 of Webb.

In my view it follows from the foregoing that it is not open to me to stigmatise the Claimant's lending policies as negligent by their very nature.

18 That is not the end of the matter. Even if the policy was not itself negligent that leaves open the possibility of negligence by the Claimant in and about its operation of that policy. However, for the reasons set out hereunder I do not find negligence in that regard either-

a) They made appropriate credit checks through Experian-although these disclosed a less than perfect credit history it cannot be said that that history was so bad that no reasonable lender would have considered advancing money-the defaults revealed involved relatively modest sums.

b) They verified the existence of the borrowers` business via the mechanism of their accountants.

c) They did query the absence of the name of the first borrower from the register of electors and sought and obtained an explanation

19 I have not overlooked certain of the authorities cited to me by the defendant's counsel I fully understand that merely because everyone was doing it does not necessarily mean that what was done was not negligent. However it is important to look closely at the cases where contributory negligence has been found. In Nationwide v Balmer (1999) Lloyds PN 241 Blackburne J dealt with a number of cases arising out of the lending policies operating in the time of another property boom namely the late 80`s. I note that at page 289 he accepted that the industry practise at the time involved lending at up to 95% LTV. He declined to make any general condemnation of that policy. He said "the fact that the policy overall may have been justified commercially does not mean that individual lending decisions involving loans of up to 95% were not imprudent." In that case they had been imprudent because they had ignored their own procedures eg a failure to find out why a borrower was not on the electoral roll. I repeat-the crucial point was a failure to follow their own procedures. To the same effect is the decision in Mortgage Corporation v Halifax (1999) Lloyds PN 159.The case concerned a property in Bishop's Avenue Hampstead described by the judge as "probably the most prestigious suburban residential road in London." The sums involved ran into millions. I note that the judge pointed out (at page178) that "the mere fact that a loan was risky is neither here nor there." It followed that a self certified mortgage of £3million on an LTV of 60% was not necessarily imprudent. But, as the judge makes clear at page 182 the lenders were negligent because they had failed to follow their own procedures and their ordinary lending criteria. They did not use the relevant form current at the time the loan was agreed. The enquiries they made were perfunctory. They relied upon gossip. The situation cried out for further enquiries. As set out in an earlier paragraph I have concluded that the current case is not one where it can properly be said that the Claimants ignored their own procedures or failed to make any enquiries at all.

20 In summary therefore I find that the valuation was negligent as being outside the permissible range of values and that the Claimants were not negligent in advancing the money to the borrowers.

Dated this day of 2013

……..

HIS HONOUR JUDGE DENYER QC

DESIGNATED CIVIL JUDGE FOR BRISTOL