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# Left homeless for £25

Unscrupulous freeholders are using an outdated law to seize home-owners' properties, says Jane Barry

**L**EASEHOLDERS believe that their home belongs to them. It is a shock when this proves not to be the case. Joan Payne's freeholder claimed she owed £25 in ground rent. He took possession of her Hastings studio flat using the landlord's right to forfeit her lease.

**This is a uniquely savage penalty inflicted only on leaseholders** Unlike a repossession, where a debtor must sell his property to repay his debt, but keeps any money left over, forfeiture leaves a leaseholder with nothing. To recover a trivial debt, Payne's landlord took a property worth £60,000.

Freeholders need some sanction to compel tenants to pay service charges and keep other covenants in their leases, but few would dispute that forfeiture is unjust. In what other situation would you have to use your entire asset to pay off a small debt?

Lawyer Damian Greenish, who chaired the British Property

Upfront leaseholder who was threatened with forfeiture after refusing to pay his £17,000 share of a £330,000 bill for major works that had no breakdown of costs. He took Upfront to the Leasehold Valuation Tribunal — forfeiture cannot take place if service charges are being disputed.

Neither Upfront nor Sulc was available for comment, but Payne's lawyer, David Collins of Meneers, has represented five leaseholders in forfeiture cases involving Sulc. He says: "For every one who stands up for their rights, I'm concerned there are three or four who will walk away."

Yet neither the police nor Hastings borough council will act. Leasehold issues must be pursued through the civil courts. The Government's leasehold reforms aim to curb rogue freeholders by insisting that landlords demand ground rents before taking action for late payment; by forcing them to prove to a court or LVT that the lease has been breached (at present, a landlord can exact forfeiture without going to court) and by outlawing forfeiture for debts of less than £500. But these measures do not come in until the spring, and they are a far cry from the Government's original intention to scrap forfeiture. It will still be a threat and, as Damian Greenish says: "It frightens the hell out of people."

Noelle Rawé was threatened with forfeiture by her freeholder, Steel Services Ltd, after she refused to pay a £14,400 bill for major works that offered no detail of costs. During the past year, she and other tenants have fought these service charges through the courts and the LVT, and sees the threat of losing her £250,000 Knightsbridge flat as an intimidatory tactic. "When I got a letter like that, I was very, very frightened," she says. CKFT Solicitors, on behalf of Steel Services Ltd, would not comment.

David Hewett, of the Association of Residential Managing Agents, which considers forfeiture "unfair and wrong", believes enforced sale would be more just. "The leaseholder pays the service charge arrears and the building society, but keeps what remains," he says.

Lawyer Greenish agrees that it is a fairer solution.

The National Council of Mortgage Lenders would also like a change — at the moment some lenders pay the landlord's demands if forfeiture is threatened rather than lose the security for their loan. "Enforced sale sounds a good solution," says an NCML spokesman. "Lenders would retain their security in the property, that's the fundamental point."

For the Government, however, abolishing forfeiture is still a "long-term" goal. A spokesman says: "While the concept of replacing forfeiture may seem a relatively simple one, legally and practically the matter is more complex. The Law Commission is at present working up the details of proposals on the termination of tenancies in general, which are likely to be relevant here."

But Shona Mclsaac says: "We can wait for ever for the Law Commission. My view is that this should be implemented now."



Joan Payne: freeholder took possession of her £60,000 property over a £25 debt



Peter Rochford: threatened with forfeiture by his freeholder, Upfront UK Ltd, after he refused to pay £17,000 of a £330,000 bill that had no breakdown of the costs

Federation's working party on the issue, agrees. "It's a very severe penalty. I can't think of anything equivalent that's as tough as that."

Shona Mclsaac, MP for Cleethorpes, who is urging housing minister Keith Hill to abolish forfeiture, says: "I don't believe it has any place in modern housing legislation." To add insult to injury, the leaseholder must pay the freeholder's costs and continue paying the mortgage, even though they no longer own the property.

Payne's freeholder is Upfront UK Ltd, fronted by Hastings landlord Marcel Sulc. Payne had paid her ground rent. "But I paid again, and a third time. He wouldn't cash the cheques." With her flat padlocked against her, she was forced to fight a 10-month legal battle with Upfront, finally winning her property back, with damages and costs, in March 2002. Peter Rochford is another

Pictures by Max Jourdan