



# THE RIGHT TO QUIET ENJOYMENT

MAY 2019

## FOULADI V DAROUT LIMITED AND OTHERS

The recent High Court decision, in the case of *Fouladi v Darout Limited*, outlines the current legal position on landlord liability for nuisance caused by tenants.

### Background

St Mary Abbotts Court is a 1920s mansion block of apartments, located on a tree-lined street in Kensington, London. Sarvanez Fouladi (the claimant in the action) was a tenant in the block who accused her landlord of breaching their covenant of quiet enjoyment due to the noise by the tenant of the flat above hers.

The covenant of quiet enjoyment, where the Landlord must not interfere or allow anyone else to interfere with the Tenant's use of the property, is a mainstay of the vast majority of leases and protects the tenant's right to the undisturbed use and enjoyment of their property.

### The Issue

Ms Fouladi claimed that she had been suffering a "constant bombardment of noise" for around 7 years after the tenant of the flat above her undertook substantial alterations, which included taking up floors, removing walls and failing to adequately soundproof the property.

Ms Fouladi claimed that she could "not rest in her own home" and that "the noise has ruined her life". Although the Landlord had knowledge of the works being undertaken, the neighbouring Tenant had not obtained his consent for the works, which they were legally obliged to do under the terms of their lease.

### The Decision

The court dismissed Ms Fouladi's claims against the Landlord judging that that the Landlord could not be in breach for nuisance in which they did not participate. The neighbouring Tenant however was in breach, and having been found liable, was ordered to undertake further alterations to reduce the noise level and pay compensation to Ms Fouladi.

Although in this case, the Landlord was not found liable for the nuisance caused by their tenants, the grounds of this case should be a stark reminder to both Landlords and Tenants regarding their rights and obligations of the quiet enjoyment covenant.

Had the Landlord expressly consented to the works, the Court would almost certainly have concluded that the Landlord would have been liable to Ms Fouladi. As a Tenant, one has an obligation to your neighbours not to cause a nuisance, and a breach of that obligation can result in substantial damages.

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This case is not carte blanche for Landlords to turn a blind eye when their Tenants seek permission for works, but to ensure that the rights of other occupants in the building are taken into account when giving consent.

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