Both retain possession: All covenants are enforceable as between original landlord and tenant, regardless of whether they are personal or proprietary.

> Tenant has assigned the lease: - released in respect of all obligations not expressed to be personal (L&TCA 1995, s 5(2)) - any term attempting to prevent this release will be void - tenant's guarantor will be released from obligation on the assignment by the tenant (L&TCA 1995, section 24(2)), Good Harvest - any term attempting to prevent the tenant's release will be void, section 25(2) These rules do not apply if the

(section 11). The tenant will be still be bound by any obligation expressed to be personal.

assignment was made in breach of

covenant and by operation of law

Has the tenant entered into an AGA? Section 16 L&TCA 1995 - landlord requires it as part of consent to assignment of the lease - T1 can be required to guarantee the performance of T2, but not T3. - if landlord calls on the guarantee, T1 will be able to claim an overriding lease, section 19

Leasehold covenan Original landlord and tenant

> Landlord has assigned the lease: - landlord is not automatically released from the covenant - L1 must apply to T for release, section 6

- L1 will be released if: T does not respond within four weeks; T consents; or the court considers L's application for release reasonable (section 8)

The landlord will still be bound by any covenant expressed to be personal.

s there an *Avonridge* clause? - this provides that the landlord will be automatically released from his obligations following an assignment. This is an alternative route for the landlord to ensure hey are released.

2 will have the benefit of any covenants in the lease not

expressed to be personal. - including right of re-entry, section

- benefit of a guarantor agreement ensuring performance by T

L2 will bound by any obligation in the lease not expressed to be personal.

> T2 will have the benefit of any covenants not expressed to be personal.

> > Γ2 will be burdened by any rights not expressed to be personal. They can also be required on assignment to T3 to enter into an AGA to guarantee performance by T3, but not T4.

_easehold covenan

andlord

tenant

Was the lease entered into after

I Jan 1996?

L2 is benefitted by any covenant which touch and concern the land; e.g. no covenants taken for personal benefit of L1.

the covenants 'touch and

concern' (section 141).

landlord

Leasehold covenant - L2 is bound if

Takes assignment in equity depends upon the rule in *Tulk v* Moxhay.

tenant

_easehold covenar

T2 has the benefit of any covenants against the original landlord, and the benefit of any covenants which touch and concern against L2 etc.

Takes assignment at law

T2 is bound if the covenants 'touch

and concern' (section 141).

Original landlord and

easehold covenan

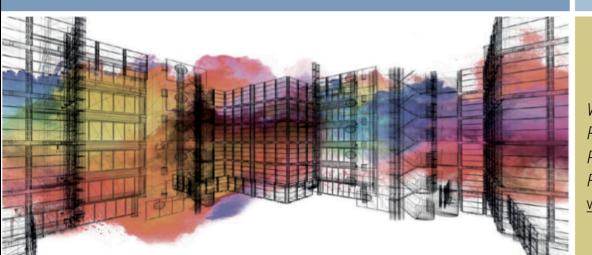
Both retain possession: All covenants are enforceable as between original landlord and tenant, regardless of whether they are personal or proprietary.

T1 has assigned the lease. Tenant remains liable for performance of all contractual obligations. T2 also

Fixed sum. Unliquidated damages.

_1 has assigned the lease. L1 remains liable under privity of contract, albeit that liability often limited by (a) indemnity from L2, and (b) from the nature of the lease and the sorts of obligations resting on landlords.

THE PRINCIPLES OF LAND LAW EMMA LEES



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