

British court ruling increases risk of home repossession

Mike Head

17 November 2008

A British court ruling allowing lenders to seize properties after only two missed mortgage payments has made a mockery of claims by the Brown government to be protecting ordinary people from losing their homes.

High Court Justice Briggs last month invoked legislation dating from 1925 to permit GMAC-RFC, a General Motors mortgage company, to evict a couple from their house without a prior court order.

The judge handed down the decision amid mounting repossessions across the UK. According to the Financial Services Authority, repossessions rose by 71 percent in the three months to June to 11,050, compared with 6,476 during the same three months of 2007. Evictions are expected to rise sharply over coming months as Britain's recession worsens and official unemployment grows above two million. Already, at the end of June, 312,000 loan accounts were in arrears, 16 percent up on a year earlier.

More than 150,000 homeowners were at least three months in arrears in the six months to June, about 30 percent more than in the same period last year. The Council of Mortgage Lenders predicts that repossessions will jump by 50 percent to 45,000 this year and continue to rise over the next 12 months.

The legal case covered a buy-to-let property where GMAC-RFC passed a property to receivers that sold the property at auction, which eventually ended in the hands of Horsham Properties. GMAC-RFC had taken action against the owners as they were in arrears and in breach of the occupancy condition by being resident in the buy-to-let home themselves. Justice Briggs ruled GMAC-RFC was entitled to do this without a court order.

A Ministry of Justice spokesperson commented, "The

Horsham case confirms the long-standing right of a mortgage lender to sell a property without a court order by virtue of the mortgage agreement where the borrower is in arrears." The official claimed such cases were rare because a borrower cannot generally be required to leave the property without a court order.

Lawyers and debt counselling agencies, however, said the ruling was a blow to homeowners and had set a precedent by supporting the right of lenders to repossess properties at will. Frances Walker of the Consumer Credit Counselling Service said, "This case is shocking and extremely disappointing. The fear is that the practice could become more widespread as the housing crisis worsens."

GMAC-RFC admitted that it "frequently exercised" its power with buy-to-let borrowers, but claimed it would not have taken such draconian action over a residential home loan. Yet, according to charitable agencies, many lenders are taking a tougher approach with struggling borrowers.

Chris Tapp of Credit Action told *MSN Money*, "We have cases where borrowers have made a reasonable offer to their lender, perhaps because they have missed a payment or they have fallen short over a couple of months. But the lenders are in some cases totally intransigent."

Tapp added, "It's quite common for credit card or loan firms to sell their debt to a collection agency—and then things can get really aggressive. There will be letters, phone calls, threats of court action and bailiffs. It can be very scary for the borrower, but the agency has no relationship with the customer and no brand name to protect. It simply wants to collect the debt."

The increasingly harsh approach is by no means confined to debt collectors. Banks, many of which the government has bailed out to the tune of billions, are

directly involved. Having already written off some £20 billion in bad debts, they are determined to move in before joblessness soars and property prices fall further.

The latest figures from Halifax show property prices have slumped nearly 15 percent over the past year. Banks and other lenders are calculating that as house prices drop, they will recoup less of their money on a repossession sale.

Gill Hankey of the Bankruptcy Advisory Service, told *MSN*, "Banks are rushing to start repossession proceedings if you are just two months in arrears on your mortgage payments. They are unwilling to negotiate or be flexible--and it can be very frightening."

Figures from the Council of Mortgage Lenders, an industry group, show that someone who has been in arrears for six to 12 months is almost twice as likely to face repossession now as they were in the early 1990s.

Financial institutions are also obtaining court "charging" orders to turn credit card and other non-housing consumer debt into debts secured against property, which means that people can lose their homes that way as well. The number of charging orders has jumped by about 45 percent over the past year.

These entirely predictable practices of the banks and finance houses have exposed the duplicity of the Labour government, which has pumped billions into bankers' coffers but refused to offer any genuine assistance or protection to financially-stressed mortgage holders. Last month, Prime Minister Gordon Brown urged lenders to use repossession only as a last resort. He pledged to introduce protocols to ensure that all other means of resolving mortgage debt were first explored, including extending the term of the loan and switching mortgages.

At his monthly news conference last week, Brown criticised the court ruling, saying, "This is not an acceptable situation. We said very clearly there were rules [for banks] to go through.... There are millions of homeowners ... we are determined only a few are repossessed."

Labour is nervous about the public reaction to the rising tide of repossessions. Eighty percent of British people want the government to take a more active role in helping those at risk of having their homes repossessed, according to an Ipsos Mori study for St. Mungo's, a London homeless charity. The survey also found that far from evictions affecting only a small

minority of people, more than one in eight fears they could be forced out of their homes during the recession.

The government has made it clear it will not direct the lending and repossession policies of the banks, even the ones in which it has taken massive shareholdings. As in every other aspect of its program, Labour insists that the private market must prevail. As the banks seek to bolster their balance sheets at the expense of borrowers, evictions will only accelerate.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact