

# Target Home Loans Ltd v Clothier [1994]

A case about ownership over a mortgaged property.

## Evidence

The defendants mortgaged their home and failed to make payments. The plaintiff sought a permit for possession of the property. The court postponed the hearing so that the defendants could sell a piece of land, a delay that the plaintiff subsequently appealed against. By the time the hearing took place, the defendants had not managed to sell their land. However, their estate agent expected to sell the land shortly.

## Problematics

The Court of Appeal had to decide whether the property could be sold any time soon and whether it was in everyone's interest for the defendants to have the opportunity to sell their land at short notice.

## Resolution

The plaintiff's appeal was approved. There was no chance that the defendants would be able to swiftly pay off the debt and no way for them to do so without having sold the property. However, the defendants could sell the land faster if they were still the owners, as people are more likely to buy a house from the owners than through a mortgage company. Therefore, the plaintiff's request for possession was delayed for three months.

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