

IN THE COURT OF APPEAL

CASE NUMBER

CIVIL DIVISION

On an application for permission to appeal from

THE HIGH COURT OF JUSTICE

Claim No 2014

Folio 538

QUEEN'S BENCH DIVISION

IN THE COMMERCIAL COURT

BETWEEN

MARK ROBERT ALEXANDER (as representative of the "Property118 Action
Group")

APPLICANT

-V-

WEST BROMWICH MORTGAGE COMPANY LTD

RESPONDENT

GROUND OF APPEAL

The Applicant submits that the decision of Mr. Justice Teare to refuse relief to the Applicant as prayed for was wrong in law, in that His Lordship,

1. Having adopted the appropriate test for interpretation of inconsistency in the terms of the contract before him, failed to apply the said test correctly to the facts as he found them in that,
2. He failed to find that the contract in question was a 'tracker' mortgage, despite that fact being common ground between the parties, and thus

3. He failed to give any or proper weight to the factual background, in particular the advertising material of the Respondent's group of companies, and the commercial purpose of a 'tracker' mortgage, in the process of interpretation, and thus
4. Wrongly found that the terms relating to interest and early repayment found in the Standard Conditions of the contract were incorporated into the contract, and
5. Wrongly found that the said terms were not inconsistent with the Special Conditions of the contract relating to interest and early repayment.

Mark Smith
Counsel for the Applicant
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