

# Shane v. Runwell Ltd

[1967] E.G.D. 88

Roskill J.

*Queen's Bench Division*

The defendants were the tenants of premises comprising wholesale salerooms and other premises and had been in possession since 1933. Until 1952 the tenants were not under a full repairing lease but at about that time they entered into a fully repairing lease which expired in 1959. The freehold owner died in that year and a further lease was executed in February 1961 to run from March 25, 1959 for a further term of seven years. Under this lease the tenants covenant, *inter alia*, C-262

Clause 2, subclause (3)

“At all times during the continuance of the said term to repair and keep in good and substantial repair and condition the demised premises and all the landlord's fixtures and fittings therein and thereon”

subclause (4)

“In a proper and workmanlike manner to paint grain varnish and colour all the external wood and iron work and stucco or cement parts of the demised premises usually painted grained varnished and coloured once in every third year of the said term ...”

subclause (6)

“To do and execute or cause to be done and executed all such works and things as [are made necessary] under or by virtue of any general or local Acts or Act of Parliament by-laws rules and regulations already or hereafter to be passed ...”

The lease expired by effluxion of time in March 1966. A schedule of dilapidations was served in March 1965 but not complied with and in June 1966 a further schedule of dilapidations was served. The key question before the court was whether the site value of the demised premises on March 25, 1966 exceeded the investment value thus allowing the defendants to rely on section 18 of the 1927 Act. Whilst there were re-development proposals for the site by the city council the timescale was likely to be more than five years.

- HELD: (1) The duty under section 18 is to determine what, if any, is the diminution in the value of the reversion.
- (2) In assessing the value of the site one factor to consider was whether there was a purchaser in the open market available at that time and what that purchaser would be prepared to pay.
- (3) In the context of section 18 a site does not cease to have a value upon the relevant date merely because it is not instantly realisable on that date.
- (4) The site value was £7,500, the investment value £11,000 leaving a difference between the two of £3,500. This was less than the amount of £5,000 claimed in the final schedule so that the section 18 ceiling decreed the amount of damages as £3,500.

SHANE V. RUNWELL LTD

**Text Cross Reference: 9-13; 11-05.**

**Cross-reference to other digested cases.**

**The following digested cases were cited in this judgment:**

None.

**This decision has since been cited in the following digested cases:**

None.