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### What's it worth?

#### How to value property in shareholder disputes

To value shares in a company, you often have to value the underlying assets, including properties. But how should a valuer do that? What assumptions should be used? What deductions should be made?

When shareholder makes a successful complaint about unfair prejudice in the way the company's affairs are run, the court will usually order his shares to be bought out at a valuation, as if the unfair prejudice had not occurred. The court is not bound to follow Red Book valuation principles, but instead has "a very wide discretion to do what is considered fair and equitable in all the circumstances of the case, in order to put right and cure for the future the unfair prejudice which the petitioner has suffered at the hands of the other shareholders of the company."<sup>1</sup> In [Shah v Shah](#)<sup>2</sup> the court has given useful guidance on the valuation of underlying assets. The case may well have wider implications, affecting any situation in which a property is being valued when there is no actual intention that it should be sold.

The company's business was loss-making, so the shares were to be valued by reference to net asset value, but it continued to trade, so there was no likelihood that its property would be sold. As well as deciding items disputed between the expert witnesses, Mr Justice Roth decided that:

- The values should not be reduced by the full corporation tax liability that would arise upon disposal. For a property very unlikely to be sold, 10% of the liability should be deducted; for one where there was no sale planned but it was possible, 20%.
- Costs of sale, and a contribution to the purchaser's stamp duty, should not be allowed.

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<sup>1</sup> Re Bird Precision Bellows Ltd [1986] 1 Ch 658

<sup>2</sup> [\[2011\] EWHC 1902 \(Ch\)](#)

- Possible void periods and the weakness of tenant covenants should be reflected in the yield, not separately deducted from the estimated rental value.

The case would make an instructive read for any valuer giving expert advice in court proceedings, and for share valuers incorporating asset valuations into their valuations of companies.

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