

TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



Chris Maynard

Year of call
1988

Chris Maynard practises principally in the field of property litigation. He brings over 30 years of experience to providing advice and advocacy in civil disputes arising in common law, chancery, or administrative law. His clients include foreign governments, charities, universities and colleges, local authorities, business entities, trustees, and individuals.

He can advise upon practice and procedure, including emergency remedies, as well as on the substantive law. He has experience of advocacy in courts and tribunals at all levels. He is regularly instructed in matters arising in the Caribbean, and he is familiar with foreign rules of procedure. He also has experience of professional disciplinary hearings and of alternative dispute resolution. His ancillary areas of law include insolvency; fraud; negligence and nuisance; and mental capacity.

Beyond the bar, Chris Maynard is chair of trustees at one of the busiest and most dynamic local Citizens Advice Bureaux in the country serving areas of high social deprivation.

Real Property

Land disputes, including issues with registration of title and unregistered titles; mortgages and encumbrances; boundaries, easements and restrictive covenants; slander of title.

Landlord & Tenant

Including leases of industrial, retail, and other commercial spaces and residential property.

Trusts

Trusts, wills and inheritance.

Commercial Contracts

Commercial and consumer contracts.

Companies & Partnerships

Company and partnership disputes.

Notable Cases

Houssein v London Credit Ltd [2023] EWHC 1428 (Ch)

Successful sequel to the interim injunction in the same matter (below). The Court found the mortgage intermediary who gave evidence for the lender either lied in the witness box or he was recklessly indifferent to the facts and the lender's Business Development Manager also gave dishonest evidence. The lender had waived the non-residence condition in respect of a secured bridging loan and therefore the fact the directors of the borrower company remained living at one of the security properties was not a breach of covenant. Accordingly, the lender was not entitled to default interest and its appointment of LPA receivers was unlawful. In any event, the default interest did not protect a legitimate interest of the lender and it was an unenforceable penalty.

Dunlop v Romanoff [2023] UKFTT 00157 (PC)

Successful opposition to an application for first registration of title to an unadopted rural lane. On the question whether, in a conveyance made in 1918, the plan prevailed over the description of the parcels by reference to OS numbers and measurements, the true construction of the conveyance was that the lane had not been included in the land conveyed. On the evidence, the applicant's alternative claim based on adverse possession of the lane was also rejected.

Houssein v London Credit Ltd [2021] EWHC 1417 (Ch)

Successful application for an interim injunction to restrain enforcement by a mortgagee against a portfolio of buy-to-let properties the day before a group of them were due to be sold at auction. The balance of convenience test applied pending determination of whether the third claimant had defaulted under a bridging loan, whether a claim for default interest was an unenforceable penalty and whether the first claimant had been unduly influenced by her late husband.

(noted in Chitty on Contracts 34th edn, ch 10)

Fleet Stother Cooke v Ward Gethin Archer (a firm) [2021]

An Extended Civil Restraint Order ("ECRO") was further extended upon the applicant making repeated applications which were totally without merit.

Diamond Hangar Ltd v Abacus Lighting Ltd [2019] EWHC 224 (Ch)

Exceptional circumstances applied to justify the rescission of the winding up order made against the tenant of a large aircraft hangar at Stansted Airport upon terms that the company appointed an additional director who was independent of the shareholders.

(noted in McPherson & Keay's Law of Company Liquidation 5th edn, ch 2, ch 3; Sealy & Milman: Annotated Guide to the Insolvency Legislation 25th edn ¶12:59; Doyle, Keay and Curl: Annotated Insolvency Legislation)

Goldup v Cobb [2017] EWHC 526 (Ch)

The right to a pension which derived from contributions to the Local Government Pension Scheme in respect of a partner's office as coroner existed at the date of the dissolution of the partnership and was capable of being an asset of the partnership, but whether it was such an asset depended on the agreement between the partners. The contributions had been deducted at source and the court accepted that the defendant had been clear that it was only the net payment from the local authority that was to go into the partnership and that she did not intend the pension to be a partnership asset

(noted in Halsbury's Laws of England, vol 79 (2020) ¶128; Lindley & Banks on Partnership 20th edn, ch 18).

Maurice J Bushell v Born [2017] EWHC 2227 (Ch)

Successful appeal on point law against an arbitration award in partnership dispute. It was nonetheless appropriate to remit the award to the arbitrator as there was no basis for doubting his ability to act impartially

(noted in Keating on Construction Contracts 11th edn, ch 17).

Sivagnanam v Barclays Bank Plc [2015] EWHC 3985 (Comm)

The sole shareholder, director and guarantor of a company was not within the class of persons intended to be protected by the statutory provisions under s.138D Financial Services and Markets Act 2000, therefore he could not bring a claim for loss said to have been suffered as a private person as a result of breaches of the conduct of business rules in miss-selling interest rate hedge products to the company

(noted in Chitty on Contract 34th edn, ch 36; Tolley's Company Law Service ¶18511]; Clerk & Lindsell on Torts 23rd edn, ch 9; Encyclopedia of Financial Services Law, ¶2A-309; Hollington on Shareholders' Rights 9th edn, chap 11; Law of Loans and Borrowing ¶6.75; Misrepresentation, Mistake and Non-Disclosure, 6th edn, ch 7; Palmer's Company Law ¶11.054).

Metaxides & Anor v Swart & Ors [2015] UKPC 32

Successful application for leave to appeal and successful appeal against ruling of Bahamas Court of Appeal on a preliminary issue as to validity of earlier proceedings: misnomer or misidentification

(noted in Dicey, Morris & Collins on the Conflict of Laws 15th edn, ch 24).

Butterworth v Lang [2015] EWHC 529 (Ch)

Appeal against refusal of County Court to strike out claim against co-surety on the basis that the claim exceeded the County Court's equity jurisdiction

(noted in Munkman: Employer's Liability, ch 14; O'Hare & Browne: Civil Litigation 20th edn, ch 33; White Book 2023, n 30.3.1).

Lilyford Ltd v La Porta [2013] EWHC 434 (Ch); [2013] All ER (D) 168 (Mar); [2013] 2 P&CR DG2

Application to strike out part of a defence to a tenant's claim for damages for wrongful forfeiture. Held: the tenant was not estopped by reason of an earlier (and unappealed) dismissal of an application for relief against forfeiture; nor was the later claim an abuse of process. Strike out application successful.

(noted in Hill and Redman's Law of Landlord and Tenant, ch 14; Aldridge Leasehold Law ch 2; Residential Possession Proceedings 10th edn, ch 2; Zuckerman on Civil Procedure: Principles of Practice 3rd edn, ch 26; White Book [2018] para 3.4.3.2).

Mason v Walton-on-Thames Charity [2011] EWCA Civ 1098

Written submissions opposing renewed application for permission to appeal referred to in judgement of Mummery LJ. (Permission subsequently refused by Arden LJ on 15/11/11 and costs of the Jolly v Jay letter awarded

(noted in Zuckerman on Civil Procedure: Principles of Practice 4th edn. ch 25).

Mason v Walton-on-Thames Charity [2010] EWHC 1688 (Ch)

Acting for first defendant charity in boundary dispute and also for third defendant transferee of disputed land (a residents' association), the transfer having taken place shortly before trial. A late application by third defendant to strike out/for summary judgement was resolved as preliminary issue in trial of claim. Held: the claimant was not entitled (i) to a declaration of title; or (ii) to any alteration of the register to comprise the disputed land within her registered title or for it to be excluded from the title which vested in the charity at law and in the residents' association in equity; or (iii) to any injunctive relief as claimed in the re-Amended Particulars of Claim. The case gave rise to issues of construction, pre-contractual negotiations and privilege of communications made in an unresolved mediation. "The matter was opened by Mr Maynard, to whom I pay tribute as he was conspicuously even-handed in the way he set out the issues both of fact and law which the court is required to consider."

(noted in Civil Appeals 2nd edn, ch 2; Foskett on Compromise 9th edn. ch 19; White Book 2023, ¶14-4).

Jayasinghe v Liyanage [2010] EWHC 265 (Ch); [2010] WLR 2106; [2010] 1 EGLR 61; [2010] 8 E.G. 105 (C.S.); [2010] N.P.C. 20; [2010] 2 P. & C.R. DG7; Times, April 09, 2010

Whether the Adjudicator to HM Land Registry was correct to have embarked upon a trial of the issue whether J had any beneficial interest in registered land, or whether he ought only to have ascertained whether she had an arguable claim to that effect and directed that her claim should be tested by a competent court.

(noted in Boundaries and Easements, 7th edn, ch 4; Emmet & Farrand on Title, ch 9; Megarry & Wade: The Law of Real Property 9th edn, ch 6; Ruoff & Roper: Registered Conveyancing, ch 48).

Mack v Lockwood [2009] EWHC 1524 (Ch)

At a criminal trial for murder of his wife the claimant, a retired captain of industry, had changed his plea to manslaughter by reason of provocation, which was accepted by the Crown. In this action the claimant claimed under the Forfeiture Act for modification of the common law rule of forfeiture so he could inherit his wife's estate under her will. Acted for 3rd Respondent on CFA; other respondents did not take part in trial. Held: If it was not murder, an ordinary member of the public would no doubt regard what claimant did as being so close to it as to make no difference in terms of his culpability. Claim rejected.

(noted in Lewin on Trusts 20th edn, ch 8; Williams, Mortimer & Sunnucks – Executors, Administrators and Probate 21st edn ch 21, ch 68; Butterworths Wills Probate and Administration Service, ch 8; Tristram and Coote's Probate Practice, ch 5).

Re Patel-Nasri; Patel v Nasri (2009) High Court, Chancery Divn (Sir Andrew Park)

Husband of London WPC Nisha Patel-Nasri obtained probate of her will in his favour before he was arrested and convicted for procuring her murder. Action for declarations that (1) defendant's interest in the estate was forfeited and (2) estate held on statutory trusts for deceased's brothers under Administration of Estates Act 1925; and order that claimant be substituted in place of defendant as personal representative pursuant to s50 Administration of Justice Act 1985. Judgment as asked.

Barrett v Barrett [2008] EWHC 1061 (Ch); [2008] B.P.I.R. 817; [2008] 2 P. & C.R. 17; [2008] 2 E.G.L.R. 81; [2008] 31 E.G. 90; [2009] W.T.L.R. 201; [2008] 21 E.G. 138 (C.S.); [2008] 2 P. & C.R. DG8

Whether appellant needed to rely on the unlawful purpose of an agreement in order to establish his beneficial interest in property, or whether the tainted motive of the agreement was too remote to bar enforcement of his interest in the property or its proceeds

(noted in Hanbury & Martin: Modern Equity 22nd edn. ch 13; Lewin on Trusts 20th edn, ch 10; Muir Hunter on Personal Insolvency ¶3-2170; Sealy & Milman: Annotated Guide to the Insolvency Legislation 25th edn, s 333; The Law of Insolvency 5th edn, ch 8; Doyle, Keay and Curl: Annotated Insolvency Legislation, s 333.)

Bank of Credit & Commerce International v Mamon [2005] EWCA Civ 970

The fact a judgment debt for the loan was statute barred did not prevent the mortgagee from enforcing its legal charge by claiming possession.

R v L B Newham ex p Bibi (Manik) [2002] 1 WLR 237

Housing; homelessness; judicial review; a leading authority on the doctrine of legitimate expectations.

Williams v L B Southwark [2000] LGR 646; (2001) 33 HLR 22 (ChD); [2000] EGCS 44

Landlord & tenant; service charge, insurance

(noted in Halsbury's Laws of England, vol 63 (2022), ¶651; Aldridge on Leasehold Law, ch 3; Emmet & Farrand on Title, ch 26; Landlord & Tenant Factbook, ch 5; Service Charges and Management, 5th edn. ch 5; Woodfall: Landlord and Tenant, ch 7; Butterworths Property Law Service ¶[564.5]).

Slough BC v Robbins [1996] 12 CL 353

Requirement for particulars in Notice Seeking Possession

(noted in White Book 2023, ¶3A-361).

O'Sullivan v Barnett [1994] 1 WLR 1667 (CA); (1995) 27 HLR 51; [1995] 1 EGLR 93; (1994) 68 P&CR D6 Times, May 25, 1994; Independent, June 6, 1994; [1995] C.L.Y. 3047

Rent Acts; resident landlord; landlord and tenant moving to new accommodation together

(noted in Halsbury's Laws of England, vol 63 (2022), ¶750; Aldridge Leasehold Law, ch 3; Encyclopedia of Housing Law and Practice ¶1-4203; Landlord & Tenant Factbook, ch 10; Residential Possession Proceedings 10th edn, ch 15; Woodfall: Landlord and Tenant, ch 23).

Other cases of interest

- *Halifax PLC v Cornish Aquaculture Ltd* (2000) ChD: mortgagee's possession claim to fish farm, whether mortgagor could be compelled to remove living fish; legal status of fish; whether *ferae naturae*; held to be chattels.
- *Paul v Taylor* [2004] EWHC 3383 (Ch): successful claim that a will was forged.
- *Williams v Butler* (2006) Ch D: successful opposition to claim of proprietary estoppel in respect of a Welsh hill farm.
- *Fairzone Ltd v Secretary of State for Environment* (2006) T&CC: landlord & tenant; breach of covenant to reinstate.
- *re: Oriental City Shopping Centre* (2007): redevelopment of large shopping complex; advising various occupiers with variety of leases/licences on collective strategy for compensation.
- *Arisdale One Ltd v Flextronics Scotland Ltd* (2009): Acting for 3 SPVs in claims for damages for misrepresentation made when they purchased 4 industrial buildings alleged to comprise approx. 80,000 ft² in total over approx. 2½ acres but which in fact only comprised less than 66,000 ft²

- *In the matter of Land at Tudeley Lane, Tonbridge* (2016): discharge of restrictive covenant which threatened to prevent development of a new school.
- *In The Matter of the Proposed Network Rail (Essex And Others Level Crossing Reduction) Order* (2017): acting for Essex University in opposition to a proposal to extinguish the private right of way over a user worked crossing pursuant to the Transport and Works Act 1992.
- *In the matter of a block at Great Pulteney Street, Bath* (2018) remedies for nuisance caused by repeated "AirBNB" style short-term lets.
- *Ward v Tyrell* (2019): claim for damages for slander of title.
- *Chopra v Ramat Investments Corp Ltd* (2019) emergency injunction in dispute whether oversailing crane was unlawfully trespassing in airspace.
- *In the Matter of University Licence Fees for Student Accommodation* (2021) advising re: enforcement of Covid-19 restrictions.

Qualifications

- BA (Hons), University of York (1982)
- Dip. Law, Polytechnic of Central London (1986)
- Accredited Mediator, Regent's College (2003)
- MCIArb, Chartered Institute of Arbitrators (2017)

Memberships

- South Eastern Circuit
- Chancery Bar Association
- Chartered Institute of Arbitrators