

TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



Philip Rainey KC

Year of call Silk
1990 2010

Philip Rainey KC is Joint Head of Chambers, and took Silk in 2010 “...to the unequivocal delight of the market”(Chambers UK 2011).

Philip is a specialist in property litigation / real estate litigation. His practice straddles the commercial/residential divide; it encompasses all aspects of real property, commercial landlord and tenant, as well as the residential landlord and tenant (particularly enfranchisement and service charges) in which Philip made his name. He has a wealth of experience at the highest level; he has appeared in eight cases to the Lords/Supreme Court, most recently the much-anticipated A1 Ground Rents v Tudor Studios RTM Co; and numerous others to the Court of Appeal.

“He is a cool, calm and collected advocate who is able to adeptly think on his feet in the face of extremely complicated and unique points of law.” (Chambers UK 2022)

“One of the leading barristers in this field. He is a supremely confident, smooth, incredible advocate and has incredible knowledge of all areas in property litigation.” (Chambers UK 2019)

Property Litigation

Philip is a specialist in property litigation / real estate litigation. His practice straddles the commercial/residential divide; it encompasses all aspects of real property, commercial landlord and tenant, as well as the residential landlord and tenant (particularly enfranchisement and service charges) in which Philip made his name. He has a wealth of experience at the highest level; he has appeared in eight cases to the Lords/Supreme Court, most recently the much-anticipated A1 Ground Rents v Tudor Studios RTM Co;

and numerous others to the Court of Appeal.

Philip has considerable experience acting for and against developers, in respect of options, overage disputes, establishing service charges, offplan sales, social and affordable housing aspects and the problems of mixed use among others

Philip has appeared in many leading cases in the property field, including **Aviva v Williams [2023] AC 855** (service charges), the **Annington Property** judicial review **[2024] 1 WLR 365**, **Sequent Nominees v Hautford [2020] AC 28** (consents) **Kumarasamy v Edwards [2016] UKSC 40 [2016] AC 1334** (dilapidations), **Menelaou v Bank of Cyprus [2016] AC 176** (mortgagee's subrogation rights), and the "squatters rights" judicial review in **R(Best) v Chief Land Registrar [2016] QB 23**. Philip earlier appeared in **Cadogan v Sportelli [2010] 1 AC 226** and **Howard de Walden v Aggio [2009] 1 AC 39** in the House of Lords and **Daejan Investments v Benson [2013] 1 WLR 854** in the Supreme Court.

Philip has extensive experience in mortgage and guarantee claims, rent review, dilapidations, easements, restrictive covenants, boundary disputes, property-insolvency and contracts for sale. He knows his way around a party wall and the 1996 Act. Philip is experienced in arbitration and expert determination, both as advocate before the third party and in challenging the award or determination in court. He also undertakes a range of work which shades into the commercial arena, including overage and clawback, profit sharing, aspects of banking law, economic torts, fiduciary duty claims, freezing injunctions etc. His clients range from landed estates, listed property companies and banks to individual tenants.

Philip has a keen, apolitical interest in law reform in the field of landlord and tenant law. He has presented papers to the All Party Parliamentary Group on leasehold reform, and he assisted the Law Commission with its project on "Event Fees" in the retirement housing sector. He is a regular speaker on property law issues.

Notable Cases

A1 Ground Rents v Tudor Studios RTM (2024 Supreme Court)

Service of notices – validity

Aviva v Williams [2023] AC 855

Service charges – apportionment – tribunal jurisdiction

Annington Property Limited v Secretary of State for Defence [2024] 1 WLR 365 (CA)

Enfranchisement – status of the Crown

Eastern Pyramid Group Corp SA v Spire House RTM Co [2022] 1 WLR 503 (CA)

Right to Manage – Guidance case – approach to failures to comply with RTM procedures and notice requirements

Sequent Nominees Ltd v Hautford Ltd [2020] AC 28

Commercial lease – consent to make planning application – reasonably withheld

Shaviram Normandy Ltd v Basingstoke & Deane BC [2019] UKUT 256 (LC); [2020] RVR 51

Commercial long lease – user covenant – s.84 Law of Property Act 1925 – modified to permit residential use

Kumarasamy v Edwards [2016] UKSC 40 [2016] AC 1334

Dilapidations – notice requirement – common parts – s.11 LPA 1985 – easement

Menelaou v Bank of Cyprus [2015] UKSC 66 [2016] AC 176

Unjust enrichment – mortgagee – subrogation – unpaid vendor's lien

R (Best) v Chief Land Registrar [2015] EWCJ Civ 17 [2016] QB 23 (CA)

Adverse Possession – Land Registration – illegality – Criminalisation of squatting, s.144 LASPOA

Recommendations

"A very strong legal mind, highly tactical and strategic."

Chambers UK 2024

"He is an extremely persuasive advocate."

Chambers UK 2024

"Philip is at the top of his game. A real leader in the field of leasehold enfranchisement."

Chambers UK 2024

"Philip has a very technical brain, and can digest information at lightning speed."

Legal 500 2024

"He is so persuasive to listen to and so measured. When he talks it is so well constructed." "Philip has an encyclopedic knowledge of this area and is technically very able." "Philip Rainey is a star on the advocacy front, very effective and he can demolish anyone." "He is a fantastic advocate and a top-class mind."

Chambers UK 2023

"Philip has very thorough knowledge and understanding of enfranchisement legislation. He is an excellent advocate – with a calm confidence and with an ability to be very creative in his arguments."

Legal 500 2023

"He is a cool, calm and collected advocate who is able to adeptly think on his feet in the face of extremely complicated and unique points of law." "He is an absolute expert in enfranchisement."

Chambers UK 2022

"Philip is an extremely good advocate. He has a very persuasive and effective style. He is very technical and breadth of his legal knowledge is extremely impressive. He finds solutions to very difficult issues particularly on complex enfranchisement matters."

Legal 500 2022

"He gives excellent pragmatic, assertive and commercially astute advice. What Philip doesn't know about leasehold reform is not worth knowing. The star of the enfranchisement world. You would not want to go into a complex residential dispute without him on your side. Everyone listens when he speaks and almost takes it as gospel because he's so knowledgeable in the field."

Chambers UK 2021

"He is incredibly bright and able to address problems from a broad context."

Legal 500 2021

"He is excellent, has a good manner in court and is very good at presenting cases." "Excellent academically and commercially astute." "He offers clear and concise advice and is able to turn his hand to all kinds of complex issues." "Does not sit on the fence and gives excellent, pragmatic and assertive advice."

Chambers UK 2020

"Excellent, particularly on complex real property issues."

Legal 500 2020

"One of the leading barristers in this field. He is a supremely confident, smooth, incredible advocate and has incredible knowledge of all areas in property litigation."

Chambers UK 2019

"Does not sit on the fence and gives excellent, pragmatic and assertive advice."

Chambers UK 2019

Awards

- Barrister of the Year, Enfranchisement Awards (2009 & 2016)
- Real Estate Junior of the Year, Chambers Bar Awards (2009)

Appointments

Vice-Chair Property Bar Association (2022-2024)

Civil Procedure Rules Committee (2001-2008)

Publications

- Co-author: Service Charges and Management; 5th edition (Sweet & Maxwell 2022)
- Contributor: Smith & Monkcom, The Law of Gambling; 4th edition (Bloomsbury 2017)
- Co-author: Megarry's Manual of the Law of Real Property 9th edition (Sweet & Maxwell 2014)
- Co-author: Rent Review: A Surveyor's Handbook (RICS 2008)

Qualifications

- MCI Arb
- LLB (Hons)

Memberships

- Property Bar Association
- Chancery Bar Association
- Chartered Institute of Arbitrators
- Association of Leasehold Enfranchisement Practitioners