

TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



Philip Rainey QC

Year of call Silk
1990 2010

Philip is 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. His practice straddles the commercial/residential divide; it encompasses all aspects of real property, commercial L&T, as well as the residential L&T (particularly enfranchisement and service charges) in which Philip made his name. He has a wealth of experience at the highest level; he has taken six cases to the Lords/Supreme Court, most recently the much-discussed *Sequent Nominees v Hautford*; 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. His practice straddles the commercial/residential divide; it encompasses all aspects of real property, commercial L&T, as well as the residential L&T (particularly enfranchisement and service charges) for which Philip is perhaps best known.

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 **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 [2015] 2 P&CR 1**. 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

A selection of recent notable cases

Khan v Tower Hamlets LBC [2022] EWCA Civ 831

Service charges – whether costs of FTT proceedings recoverable A selection of recent notable cases.

Annington Property Limited v Secretary of State for Defence (2021) Arbitration

Rent review – multiple sites – estate of Service Family Accommodation.

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.

Aster Communities v Chapman [2021] 4 WLR 74 (CA)

Service charges – non-compliance with consultation requirements – approach to prejudice.

Canary Riverside Estate Management v Coates [2021] EWHC 1505 (Ch)

Managers – documents – whether confidential as a class of documents.

Arkin v Marshall [2020] 1 WLR 3284 (CA)

Coronavirus – application of stay provisions.

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 LLTA 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] EWCA Civ 17 [2016] QB 23 (CA)

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

Recommendations

"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

"He has formidable intellect along with strength and depth of knowledge."

Legal 500 2018

"He is very quick and bright, and a spectacular cross-examiner."

Legal 500 2015

"He has a huge brain and is very bright. He tactically does a great job."

Legal 500 2015

"A true star with a first-class brain."

Legal 500 2015

"His expertise and knowledge of long leasehold and enfranchisement work are hard to beat."

Chambers UK 2015

"A very good advocate with a commercial, client-friendly approach."

Chambers UK 2015

"Philip is extremely user-friendly. His advice is clear, definitive and reasoned, and his willingness to provide strong opinions gives you real faith in your position."

Chambers UK 2014

Awards

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

Appointments

- Civil Procedure Rules Committee (2001-2008)

Publications

- 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: Service Charges and Management; 5th edition (Sweet & Maxwell 2022)
- Co-author: Rent Review: A Surveyor's Handbook (RICS 2008)

Qualifications

- MCI Arb
- LLB (Hons)

Memberships

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