

# TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



## Timothy Polli KC

Year of call    Silk  
1997        2018

Timothy Polli KC specialises in property law and the associated professional negligence, commercial and company law issues that frequently arise in the context of property law disputes. In 2020, he was shortlisted for "Real Estate Silk of the Year" at the Chambers Bar Awards.

Tim's experience is broad and encompasses most aspects of real property and land registration, mortgages and banking, both commercial and residential landlord and tenant, trusts of land and proprietary estoppel.

He has used that experience to develop a particular specialism in the more esoteric and technical areas of property law, calling on his detailed and comprehensive knowledge of land registration, restrictive covenants; overage; rights of way and drainage, rights of light and party walls to solve challenging disputes relating to the development of and defective securities over land.

In recent years, he has also been called upon in disputes connected with the fire safety of tall buildings and the issues that arise when urgent fire-safety works are required, for example the replacement of combustible cladding (including ACM cladding) and/or restoration of compromised fire-compartmentation.

Tim's experience of the law of restitution and unjust enrichment is amply evidenced by *Menelaou* in the Supreme Court. But he brings the same innovative edge to all aspects of his commercial practice, in particular partnership and joint venture disputes, especially in the context of property development, and claims for the recovery of misappropriated monies.

Tim is regularly instructed to make applications for emergency injunctive relief (including freezing injunctions).

Tim combines an analytical style with a 'can do' approach to problem solving and a common-sense

awareness of the commercial realities underpinning any litigation. He is familiar with the requirements of working with a team of solicitors and/or Counsel and is usually available out of regular office hours.

## Landlord & Tenant

Landlord and tenant including dilapidations claims; break clauses; lease renewals; forfeiture and applications for relief; disputes arising out of requests for licence to assign or alter; disputes arising out of the insolvency of landlord or tenant; service charge disputes (for example, *Heron Maple House Ltd v Central Estates Ltd* [2002] 1 EGLR 35); RTM and enfranchisement; agricultural and farm business tenancies.

## Real Property

Real property disputes concerning boundaries and adverse possession (for example, *Beech v Kennerley* [2012] EWCA Civ 158); easements, particularly of way and drainage; restrictive covenants and the variation of restrictive covenants; party walls and rights of light; security interests in land (see Banking and Mortgages, below); land registration and rectification (see *Dhillon v Barclays Bank plc and The Chief Land Registrar* [2019] EWHC 475 (Ch)); equitable interests in land (see Proprietary Estoppel and Banking and Mortgages, below); the priority of competing interests in land (see, for example, *Bank of Cyprus v Menelaou* [2016] EWHC 2656 (Ch)).

## Banking & Mortgages

Banking and mortgages, in particular instances of mortgage fraud (for example, *Credit & Mercantile plc v Kaymuu Ltd & others* [2015] EWCA Civ 655; *UCB Home Loans Corporation v Grace & Co* (2010) LTL 15/12/2010 (Ch) and [2011] EWHC 851) or defective security, subrogation (for example *Menelaou v Bank of Cyprus* [2015] UKSC 66; [2016] AC 176 and [2016] EWHC 2656 (Ch)), claims to and the enforcement of equitable security rights (see, again, *Menelaou* especially at [2016] EWHC 2656 (Ch)); LPA and fixed charge receivers; disputes over the priority of securities (for example, *Strata Residential v Nat West Bank plc* (2013, Unreported, Manchester District Registry) and *Menelaou* at [2016] EWHC 2656 (Ch)); the enforcement of guarantees; the mis-selling of financial products, particularly contracts for differences.

## Proprietary Estoppel

Claims for equitable interests pursuant to constructive trusts or proprietary estoppel (for example, Credit & Mercantile plc v Kaymuu Ltd & others [2014] EWHC 1746 (Ch); Wombwell v James (2014, Unreported, CLCC).

## Contracts for the Sale of Land

Contracts for the sale of land; construction of such contracts; failure to complete, the forfeiture of deposits and/or specific performance; the recovery of deposits pursuant to s. 49 Law of Property Act 1925; misrepresentations in pre-contractual enquiries; unpaid vendor's liens (see, again, Menelaou [2016] EWHC 2656 (Ch)).

## Professional Negligence

Property-related professional liability, particularly that of valuers and solicitors (for example Menelaou v Bank of Cyprus v Boulter & Co [2013] EWCA Civ 1960); lender claims for breach of trust (for example, UCB Home Loans Corporation v Grace & Co (2010) LTL 15/12/2010 (Ch) and [2011] EWHC 851).

## Commercial Contracts

Commercial contract disputes including disputes concerning development agreements and joint-ventures; unjust enrichment claims for restitutionary remedies (see, again, Menelaou, particularly in the Court of Appeal ([2014] 1 WLR 854) and Supreme Court [2016] AC 176); construction disputes; disputes relating to franchise agreements; actions to recover misappropriated monies (for example, Bashir v Bashir [2013] EWHC 1043 (Ch)) and to claim the proceeds of fraud; claims for misrepresentation; rescission for mistake; applications for emergency injunctive relief (for example, UCB Homes Loans Corporation v Grace [2011] EWHC 851 (Ch)).

## Notable Cases

**Dhillon v (1) Barclays Bank; (2) Chief Land Registrar [2020 EWCA Civ 619; [2020] 2 P&CR 19**  
Property fraud; void transfers; mortgages; alteration of the register to remove a mortgage; rectification and the meaning of "mistake"; the nature and effect of escheat; vesting orders; indemnities from the Land Registry; the extent to which the availability of such an indemnity is relevant to whether the Register should be altered; "exceptional circumstances" under para 3(3) of the Land Registration Act 2002; the "right to rectify" as an overriding interest; pleadings.

**Wandsworth LBC v Multiple Leaseholders (2019) (LON/00BJ/LSC/2018/0286)**  
Fire safety of tall buildings; Landlord's proposal to retro-fit sprinkler system into all flats in all buildings more than 18 tall; landlord bringing application for determination that service charge will be payable for such works pursuant to s. 27A Landlord and Tenant Act 1985; tenants making application to strike out landlord's application.

**Dhillon v Barclays Bank [2019] EWHC 475 (Ch)**  
Property fraud; void transfers; alteration of the register; rectification and the meaning of "mistake"; the availability of an indemnity from the Land Registry; "exceptional circumstances" under para 3(3) of the Land Registration Act 2002.

**UK Oil & Gas Plc v Persons Unknown [2018] EWHC 2252 (Ch)**  
Interim injunctions against protestors employing unlawful "direct action" tactics; the issue of proceedings against described persons unknown; trespass to land and to goods; public and private nuisance; unlawful means conspiracy; the appropriate test for *quia timet* injunctions; human rights (articles 8 and 11, proportionality and s. 12(3) of the Human Rights Act 1998).

**Howard v Chelsea Yacht and Boat Company Ltd [2018] EWHC 1118**  
Houseboats; moorings and mooring licences; whether to order preliminary issue.

**Maxted v Investec Bank Plc [2017] EWHC 1997 (Ch)**  
Enforcement of guarantees; setting aside of statutory demands; discharge by and/or consent to material variations; undue influence.

### Menelaou v Bank of Cyprus UK Ltd [2016] EWHC 2656 (Ch)

The nature and enforcement of unpaid vendor's liens; priority of competing equitable interests; Trusts of Land and Appointment of Trustees Act 1996; section 90 Law of Property Act 1925; Human Rights.

### Shaista v Victorstone Financial Limited [2016] EWHC 1505 (Ch)

Construction of express deeds of trust; sham transactions; transactions defrauding creditors under s. 423 Insolvency Act 1986.

### Stevens v Ismail [2016] UKUT 43 (LC)

Variation of leasehold covenants; construction of deed of variation of lease; substitution of lease plan; surrender by operation of law.

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

Mortgages; defective security; restitution / unjust enrichment and "at the expense of"; direct and indirect expense; availability of proprietary remedy for unjust enrichment; nature of mortgagee's interest in proceeds of sale of mortgaged property; quistclose trusts; subrogation to unpaid vendor's lien.

### Wishart v Credit & Mercantile Plc [2015] EWCA Civ 655; [2015] 2 P&CR 15

Mortgage fraud; overriding interests; the Brocklesby principle; construction of mortgage provisions securing legal costs.

### Credit & Mercantile Plc v Kaymuu Ltd & Others [2014] EWHC 1746 (Ch)

Mortgage fraud; beneficial interest under resulting trust or to Pallant v Morgan or common intention constructive trust; overriding interests; whether the inherent quality of the beneficial interest was such that it took subject to the lender's charge.

### Wombwell v James [2014] (Unreported, Central London)

Claim for a new leasehold interest pursuant to proprietary estoppel or constructive trusts; certainty of representations communicated by sign language.

### Menelaou v Bank of Cyprus [2013] EWCA Civ 1960; [2014] 1 WLR 854

Mortgages; defective security; unjust enrichment; subrogation to unpaid vendor's lien.

### UCB Home Loans Corporation v Soni [2013] EWCA Civ 62

Professional liability claim by lender against innocent apparent partner of fraudulent solicitor; 'holding out' and limits of liability under section 14(1) of the Partnership Act 1890.

### Bashir v Bashir [2013] EWHC 1043 (Ch)

Suspected misappropriation of monies by Deputy; breach of trust; taking of an account and summary judgment on specific items in that account.

### Beech v Kennerley [2012] EWCA Civ 158 (CA)

Boundaries; construction of deeds of conveyance; easements; rights of way; lack of apparent destination or purpose for right of way; apparent express right of way no such thing.

### Menelaou v Bank of Cyprus v Boulter & Co [2012] EWHC 1991 (Ch)

Mortgages; defective security; professional liability claim by lender against solicitors arising out of failure to obtain a genuine signature on charge; unjust enrichment; subrogation to unpaid vendor's lien.

### UCB Home Loans Corporation v Grace & Others [2011] EWHC 851 (Ch)

Worldwide freezing injunctions; proving risk of dissipation; dishonesty; appointment of receivers by way of equitable execution.

### UCB Home Loans Corporation v Grace & Co (2010) LTL 15/12/2010 (Ch)

Defective security; professional liability of lender's former solicitor; breach of trust; authority to release client funds; meaning of "completion" in standard CML instructions.

### Saggars v UCB Homes Loans Corporation Ltd & Others [2008]

Mortgage fraud; defective security; professional liability of lender's former solicitor.

## Recommendations

"I am always impressed by his thorough preparation and attention to detail, as well as his detailed knowledge of all things property-related."

*Chambers UK 2024*

"His advocacy was exceptional and he provides sound, practical advice."

*Chambers UK 2024*

"Tim is amazing. His written submissions in particular are beguiling and are so persuasive. Reading his work is a joy. He is so easy to work with and quite obviously cares about all of the matters he takes on."

*Legal 500 2024*

"Tim is an excellent communicator and able to defuse stressful situations with a calm approach while addressing client concerns and working to find a satisfactory solution." "His power is in the fact that he's understated but extremely clever."

*Chambers UK 2023*

"An intelligent and knowledgeable silk, Tim relishes unravelling difficult and complex issues. He is a very calm and persistent advocate, who uses tenacity and carefully crafted reasoning to convince a judge of his arguments. Combining charm and intelligence in a very understated manner, he is a particular pleasure to work with."

*Legal 500 2023*

"He is extremely approachable and has a very good ability to look at any angle and prepares the client as a consequence of that." "He has excellent attention to detail and is meticulous in his preparation and research, whilst providing practical, commercial advice."

*Chambers UK 2022*

"Highly intelligent but understated, forensic and considered. Always looks at every angle which makes him one of my top counsel of choice – the client is exceedingly well informed and he does not fight battles for the sake of it but picks the one which will succeed. Very good on his feet and persistent in a calm way. Very accessible and gives clients a lot of confidence. A quality counsel."

*Legal 500 2022*

"He is a really exceptional advocate – very compelling on his feet. Extremely thorough and academic in his approach, Tim is a real talent."

*Chambers UK 2021*

"Very intelligent, thrives on complex cases and issues, thinking of every possible angle."

*Legal 500 2021*

"He is ever so user-friendly – he's a silk without pomposity." "He will leave no stone unturned and is very good in court." "He has great knowledge about anything property-related."

*Chambers UK 2020*

"A very hard worker who is focused on both detail and the whole picture."

*Legal 500 2020 (Property Litigation)*

"An experienced junior and a good trial lawyer for property-related matters." "He is very impressive and holds the court's attention. He is a real specialist in the field and good on the detail."

*Chambers UK 2017*

"He has razor-sharp intellect, and is outstanding on property service charges and mortgage disputes."

*Legal 500 2016*

## Awards

- Shortlisted for Real Estate Junior of the Year, Chambers UK (2016)

## Publications

- Contributor to "Service Charges & Management: Law & Practice".
- Contributor to the Pyramus & Thisbe Club case law update on Party Wall cases.

## Qualifications

- MA (Oxon)
- BCL (Oxon)

## Memberships

- Agricultural Law Association
- Chancery Bar Association
- Professional Negligence Bar Association
- Property Bar Association
- Pyramus & Thisbe Club