



Gerard van Tonder

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Practice Overview

Gerard is an experienced litigator with a thriving practice, mainly contentious, focusing on litigation and dispute resolution, relating to business (whether conducted through companies, partnerships, or by individuals). His practice has a particular emphasis on property law. Property matters include disputes about title and beneficial interests, easements and boundaries, restrictive covenants, overage and all aspects of landlord and tenant litigation. He frequently appears in the Business and Property Courts of the High Court, the Queen's Bench Division, the County Court and the specialist land tribunals.

He is appreciated by clients for his thorough preparation, willingness to provide clear practical advice, robust negotiation skills, and forceful advocacy. He enjoys working as part of a litigation team and recognises the benefits of collaboration.

Gerard strongly supports ADR and has represented many clients at mediations where compromises were agreed in seemingly intractable disputes.

Gerard is also qualified to accept Public Access instructions and does so in appropriate matters.

Commercial Litigation

Gerard's commercial chancery practice includes civil fraud claims, breach of warranty claims arising from share sale agreements, partnership disputes, claims for the enforcement of restrictive covenants in share sale and employment contracts, claims against directors of companies and mis-selling claims against financial institutions. He is also instructed in professional liability claims arising from mis-selling.

Gerard was instructed in *Williams v Natural Life Health Foods Ltd* [1998] 1 W.L.R. 830 which is a leading decision on the personal liability of company directors.

Gerard's current or recent cases include the following:

- a long-running claim for breaches of warranties given in a share sale agreement;
- a claim for the rectification of a commercial agreement;
- and claims between former partners in solicitors' partnerships;
- and a mis-selling claim against a bank on an interest rate swap agreement.

Company & Partnership

Gerard's company and insolvency practice includes shareholder disputes, claims about the beneficial ownership of property in the context of corporate or personal insolvencies, misfeasance claims, breach of duty claims and preference claims. He is also instructed in professional liability claims arising from insolvency proceedings.

Gerard was instructed in *Williams v Natural Life Health Foods Ltd* [1998] 1 W.L.R. 830 which is a leading decision on the personal liability of company directors.

Gerard's current or recent cases include the following:

- claims against liquidators for misfeasance;
- a preference claim;
- a shareholder dispute arising from a company sale and reorganisation;
- advising a company incorporated by private statute on the amendment of its articles of association;
- and a claim against a director for breaches of duties owed to the company.

Insolvency

Gerard's company and insolvency practice includes shareholder disputes, claims about the beneficial ownership of property in the context of corporate or personal insolvencies, misfeasance claims, breach of duty claims and preference claims. He is also instructed in professional liability claims arising from insolvency proceedings.

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Property

Gerard's property practice includes disputes about title, adverse possession, easements, landlord and tenant (commercial and residential), leasehold enfranchisement, mortgages, restrictive covenants, compulsory purchase and overage. He is also instructed in professional liability claims arising from property transactions. Gerard regularly appears in the tribunals and courts at all levels and his most recent appearance in the Court of Appeal was in the matter of *Dwyer v Westminster City Council* [2014] EWCA Civ 153; [2014] 2 P & CR 7 where he successfully resisted an appeal and succeeded with a cross appeal concerning the abandonment of a right of way.

Gerard also appeared in *Pattle and another v Secretary of State for Transport* [2009] UKUT 141 (LC) which is a significant decision concerning the entitlement to compensation for compulsory purchase.

Gerard's current or recent cases include the following:

- a complex dispute in the Chancery Division about the use and occupation of substantial commercial property in Central London over a number of years;
- a dispute about the beneficial ownership of land which required expert evidence to be obtained about the state of foreign company law;
- two disputes about right to light claims affecting property developments in Central London; and
- a professional liability claim by a mortgagee alleging negligent drafting and/or failure to advise.

Additional Information

Qualifications / Education

BA; LLB University of the Witwatersrand

Advocate of the Supreme Court of South Africa (1985)

Memberships

Chancery Bar Association

Property Bar Association

Professional Negligence Bar Association

The London Common Law and Commercial Bar Association

Languages

Afrikaans (fluent)
Dutch (functional)
German (basic)

ADR

Mediation / ADR is now a common part of the litigation process. Recent judicial decisions involve the courts both holding that the refusal of a request for mediation is likely to be treated as being unreasonable and imposing a costs sanction as a result.

Chambers provides a comprehensive mediation offering and, in addition to our extensive experience as advisers and advocates within mediations, some members of Chambers are accredited by CEDR or ADR group and accept appointments as mediators.

Articles

Date	Title	Contributors
11 Dec 2019	Bona vacantia and beyond—Court of Appeal considers vesting orders (Leon v Attorney-General and others) Published in <i>LexisPSL</i>	Gerard van Tonder

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