



Stuart Armstrong

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Practice Overview

Stuart is a property specialist with more than 20 years' experience. His practice encompasses landlord and tenant issues (relating to both residential and commercial properties) including forfeiture of leases, variation of leases, renewal of business tenancies, dilapidations and leasehold enfranchisement. Stuart also deals with a range of other real property matters including boundary disputes, adverse possession, freehold covenants and disputes as to beneficial ownership/trusts.

Clients range from private individuals to large companies.

Stuart regularly gives seminars in his practice areas and appears in a range of courts and tribunals, including the Court of Appeal, High Court and county court as well as the First-tier Tribunal (Property Chamber) and the Upper Tribunal.

Stuart is a trained mediator and has also acted as an expert in the construction of legal documents.

He accepts Public Access work.

Stuart's GDPR privacy policy is available upon request.

Property

Stuart specialises in landlord and tenant and real property.

His landlord and tenant practice encompasses both residential and commercial properties. He has considerable experience of a range of issues such as forfeiture, renewal of business tenancies, rent reviews, service charge disputes, leasehold enfranchisement, lease variations and dilapidations. Stuart also has particular expertise relating to matters such appointment of managers (under the Landlord and Tenant Act 1987) and the right to manage (under the Commonhold and Leasehold Reform Act 2002).

His real property practice encompasses matters such boundary disputes, adverse possession, freehold covenants, charges/mortgages, rights of way/easement, proprietary estoppel and disputes as to beneficial ownership/trusts.

Representative cases include:

Farrar v Leongreen Ltd [2017] EWCA Civ 2211; [2018] 1 P. & C.R. 17

Stuart represented the Appellant in the Court of Appeal. The case concerned whether a claim by a landlord for mesne profits against a former tenant who held over should be struck out on the basis of res judicata. The landlord had previously obtained an order for possession of the property on the ground that the Appellant was a trespasser but had not sought money judgment in the earlier proceedings. The Court of Appeal analysed the principles set out by Lord Sumption in *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd* [2013] UKSC 46 and how they applied to the facts of the present case.

Sartipy v Chatsworth Court Freehold Company Ltd (2017) Ch D. (Carr J) Stuart successfully acted for defendants in a claim brought to set aside a previous judgment on the ground it was obtained by fraud. The court struck out the

claim on the ground that there was no new evidence which could not have been obtained with reasonable diligence in the first claim. The court further held that, in any event, the new claim would be an abuse of process and that the defendants would be entitled to summary judgment as there was no real prospect of the claimant establishing the necessary degree of dishonesty.

Epping Forest DC v Raghavan (2017). Stuart successfully set aside an order for possession of business premises made in 2015. The order was invalid because it failed to provide for automatic relief from forfeiture in the event that arrears were paid, as required by s.138 of the County Courts Act 1984. It was therefore set aside notwithstanding the delay in the Defendant's application.

Howdle v Howdle-Rowe (2017).

Stuart represented the claimant in a trial concerning the division of the proceeds of sale of property held on an express trust. Issues included: the correct construction of the trust deed; whether one party had been constructively excluded from the property; alleged breaches of covenant; and equitable accounting.

Chatsworth Court Freehold Company Ltd v Sartipy and Ghassemian (2016-2017) Ch D, CA. The *Sartipy* case (above) followed on from a series of earlier proceedings involving Mrs Sartipy. The original dispute related to service charge arrears under a long lease. Following judgment an order for sale was obtained and a writ executed. Subsequently, Mrs Sartipy's son, Mr Ghassemian (who alleged that he was a Rent Act tenant) sought to set aside the possession order and writ. Following numerous applications and appeals in the High Court (and Court of Appeal) all the challenges to the possession order and writ were dismissed and Mr Ghassemian was made the subject of an extended civil restraint order.

Gous v Portress (2017)

This was a claim concerning right to possession pursuant to a contract for sale, power of attorney and management agreement (pending completion of the contract for sale). Issues arose as to: validity of the contract for sale; the effect failure to complete; breach of contract; and renunciation. Stuart obtained summary judgment in favour of the defendants.

Denholm v Stobbs [2016] UKUT 0208 (LC)

Stuart acted for a lessee seeking a new lease under the Leasehold Reform and Urban Development Act 1993. The parties were unable to agree the premium or the terms of the new lease. Following a determination by the First-tier Tribunal both parties appealed to the Upper Tribunal (Lands Chamber). The Upper Tribunal considered the correct approach to valuation following earlier guidance in cases such as *Kosta v Carnwath & Ors* and *The Trustees of the Sloane Stanley Estate v Mundy*

Hassibeh LLP v Durringwell (FTT) (2016)

Stuart successfully represented long leaseholders in opposing an application by the landlord for a determination of breach under s.168 of the Commonhold and Leasehold Reform Act 2002. The landlord alleged that the leaseholders had carried out unlawful alterations but it was proven that the landlord had, in fact, granted superior leases and that the alterations had been carried out prior to such superior leases, either by the landlord or with its consent. The First-tier Tribunal concluded that the applications were in fact an attempt to extort money from the lessees and ordered the landlord to pay indemnity costs.

Swan Housing Association Ltd v Gill [2012] EWHC 3129 (QB); [2013] 1 W.L.R 1253. Stuart successfully appealed the refusal of a judge to adjourn a trial in order to allow the defendant's application for adverse possession in the Land Registry to be determined. The court considered the role and jurisdiction of the court in relation to applications for adverse possession pursuant to Sch. 6 of the Land Registration Act 2002. In particular, the High Court held that a civil claim for an injunction (as opposed to possession) was no bar to an application to the Land Registry.

Croydon (Unique Ltd) v Wright [2001] Ch 318. Stuart appeared on behalf of the landlord in the Court of Appeal. The

case established the principle that equitable chargees (pursuant to a charging order) were entitled to apply for relief from forfeiture. As a result, the failure to serve the equitable charges were a breach of the CPR and/or s.138 of the and the County Courts Act 1984 with the result that the order for possession was liable to be set aside.

Mediation

Stuart has wealth of experience within the specialist practice area of landlord and tenant and other property disputes. His expertise includes the following type of matters:

- Business lease renewals
- Forfeiture
- Dilapidations
- Leasehold enfranchisement
- Right to manage claims
- Adverse possession
- Rights of way and other easements
- Restrictive covenants
- Trusts of land

He strongly believes that the vast majority of cases are capable of settlement, no matter how intransigent the parties might appear. Stuart aims to attain the confidence and trust of all parties, with a view to then facilitating agreement through a variety of approaches, tailored to meet the requirements of the case. The role of a mediator can be invaluable in assisting the parties find solutions that they may not be able to do without the input of a mediator.

Additional Information

Qualifications / Education

- Inns of Court School of Law, Bar Vocational Course
- King's College London LLM
- King's College London LLB

Awards

- 1995 Macaskie Award (Gray's Inn)
- 1994 Prince of Wales Scholarship (Gray's Inn)
- 1993 The Observer Mace (member of King's College London team)

Memberships

Property Bar Association

Public Access

Yes

ADR

Yes

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