



## Elizabeth Fitzgerald Called 2001

### Practice Summary

Elizabeth specialises in commercial property litigation and disputes relating to development land, but her expertise extends to all aspects of real property law and landlord and tenant law. Her practice also includes insolvency and professional negligence disputes.

- Education
  - St. Edwards College, Liverpool. Boraston Scholar
  - Kings College, London. LLB (Hons) - First Class.
- Professional
  - Elected as Governing Bencher of Inner Temple
  - Inns of Court School of Law - Very Competent
  - Inner Temple BVC Scholarship
  - Represented the Inner Temple at Princeton University Debating Competition 2001
  - Member of the Chancery Bar Association, the Property Bar Association and the London Commercial Law and Commercial Bar Association.
- Recent Cases
  - **Fearn v Board of Trustees of the Tate Gallery** [2019] 2 WLR 1335. No actionable nuisance in the case of four flats that were overlooked by a public viewing gallery outside Tate Modern.
  - **Zinc Cobham 1 Ltd v Adda Hotels** [2018] EWHC 1025 (Ch). An appeal concerning a claim for specific performance of an obligation to carry out works under a lease.
  - **Davis v Davis** [2016] EWCA Civ 463
  - **Davies v Davies** [2014] EWCA Civ 568. A claim by a daughter for an interest in her parents' farm based on proprietary estoppel. This case was concerned with the preliminary question of whether an equity existed.
  - **Hammersmatch Properties (Welwyn) Ltd v Saint Gobain Ceramics & Plastics Ltd & Anor (No 2)** [2013] EWHC 2227. This concerned the assessment of costs following a dilapidations trial where the Claimant had narrowly beaten the Defendant's Part 36 offer and damages fell to be assessed after the Jackson reforms.
  - **Hammersmatch Properties (Welwyn) Ltd v Saint Gobain Ceramics & Plastics Ltd & Anor** [2013] EWHC 1161. This was a high value terminal dilapidations claim concerning purpose built industrial and office premises built in the 1930s.
  - **Norwich Union Life & Pensions v Linpac Mouldings Ltd** [2010] EWCA Civ 395; [2009] EWHC 1602. This case concerned the construction of a personal tenant's break option; whether or not the reassignment of the lease to the original tenant could revive the personal option; the question of the reasonableness of the landlord's refusal to consent to such an assignment.
  - **Foxtons v Puri** [2010] EWCA Civ 925 (Estate Agents Commission)
  - **Bocado SA v (1) Star Energy UK Online Ltd (2) Star Energy Weald Basin Ltd** [2008] 2 P&CR 23; [2009] 1 All ER; [2008] 30 EG 83. (Trespass by extracting oil by way of deviated drilling beneath the Al Fayed family estate pursuant to a licence granted under the Petroleum Act 1998. Whether an action in trespass could be maintained in respect of an interference at a substantial depth beneath the surface of the land. Damages for trespass and the relevance of the right to compulsory acquire ancillary rights under the Mines (Working Facilities and Support) Act 1966.



- Limitation and deliberate concealment).
- **Coors Holdings Ltd v Dow Properties** [2007] EWCA Civ 255. (Rent review. Whether a provision which required the annual rental value to be the value which "the site comprised in the demised premises might reasonably be expected to be let ..." required an assumption of vacant land and that the building erected on the land had not been erected.)
- **Crestfort Ltd (2) Hale Point Ltd (3) Yorkstream Properties Ltd v (1) Tesco Stores Ltd (2) Magspeed Ltd** [2005] 3 EGLR 25; [2005] L&TR 20. (Whether there had been an unlawful underletting of a warehouse or whether the landlord was in breach of his obligations under the Landlord and Tenant Act 1988. Breach of a restrictive covenant contained in the lease and whether the commission of the tort of wrongful interference with a contract entitled the landlord to a mandatory injunction to surrender underlease.)
- **Dandara Holdings Ltd v (1) Co-Operative Retail Services Ltd (2) Co-Operative Group (CWS) Ltd** [2004] 2 EGLR 163; [2004] EWHC 147. (Breach of an exclusivity agreement (or 'lock-out' agreement) by estate agent. The assessment of damages for breach. Whether damages could be claimed for the loss of a chance to purchase property on favourable terms.)
- Publications
  - Co-Author of Commercial and Residential Service Charges (2013) Bloomsbury
  - Contributor to New Law Journal.

## Published Comments

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"Elizabeth Fitzgerald is not afraid to stand up to a judge." *Chambers and Partners UK Guide 2023*

"Elizabeth is methodical, determined and persuasive in court, with very strong personable skills." *Chambers and Partners UK Guide 2023*

"She is very responsive and robust. She is a fine advocate." *Chambers and Partners UK Guide 2023*

'Elizabeth is fantastic at grasping the details of a case and providing sound advice. She is responsive to her clients needs and a real team player.' *Legal 500 2023*

Elizabeth Fitzgerald focuses her impressive practice on commercial property matters, including development disputes and leasehold issues. She is adept at handling real property claims including those relating to rights of light and other easements. "She has an excellent legal and commercial view." "She is analytical and measured in her advice." *Chambers UK Guide 2022 (Real Estate Litigation)*

'Incredibly driven and determined; very clever; personable; great at assimilating evidence and very much a QC in the making.' *Legal 500 2022*

Elizabeth Fitzgerald is a "top-notch junior" who applies a profound understanding of property law on development and leaseholder disputes. *Who's Who Legal UK Bar Report 2022*

Advises her clients on both commercial and residential landlord and tenant matters. She is also adept at handling compulsory purchase orders and professional negligence cases. She works across commercial and development cases as well as agricultural matters. Strengths: "She is willing to really engage with the case, and she's approachable." "She's incredibly user-friendly and very diligent." *Chambers and Partners UK Guide 2021 (Real Estate Litigation)*

"Elizabeth is an outstanding technical lawyer." *Legal 500 2021*



Advises her clients on both commercial and residential landlord and tenant matters. She is also adept at handling compulsory purchase orders and professional negligence cases. She works across commercial and development cases as well as agricultural matters. Strengths: "Very bright, engaging and committed to exploring every possible angle." "Extremely user-friendly and tactically-minded." "Very hard-working and efficient." Recent work: Acted in the Tate Modern case concerning whether a public viewing platform from which residential flats can be seen amounts to nuisance or a breach of human rights. *Chambers and Partners 2020*

"Very user-friendly but sharp on her feet." *Legal 500 2020*

"incredibly bright, always good and a tough fighter" according to sources who commend her considerable experience in landlord and tenant matters as well as land development disputes. *Who's Who Legal UK Bar 2019 Guide*

"Advises her clients on both commercial and residential landlord and tenant matters. She is also adept at handling compulsory purchase orders and professional negligence cases. She works across commercial and development cases as well as agricultural matters. Strengths: 'Very bright and able.' 'Clever, hard-working and incredibly commercially minded.' Recent work: Represented the Curzon Mayfair Cinema in a forfeiture case." *Chambers UK Guide 2019 (Real Estate Litigation)*