Falcon Chambers

Gary Cowen KC

Called 1990 Silk 2020



Practice Summary

Gary is an experienced advocate at appellate and first instance levels in all aspects of real property law with particular emphasis on complex issues arising from commercial development, especially adverse possession, restrictive covenants and easements. Gary also specialises in complex mortgage disputes, leasehold enfranchisement and commonhold work. Most recently, he has appeared in two high-profile restrictive covenant cases concerning property at Falmouth Docks and in Berkeley Square.

Gary's recent High Court work includes cases concerning the surrender of leasehold interests without the consent of a mortgagee, the extent to which a landlord can insist upon a topping up of a rent deposit upon tenant administration to cover rent losses flowing from dilapidations and whether premises demised included the airspace required to construct an extra storey on a block of flats.

Education

- University of Bristol LLB (1989)

Professional

- Called 1990, Inner Temple
- Fellow of the Chartered Institute of Arbitrators
- Member of the Inner Temple Estates Committee
- Former member, Bar Council Professional Complaints Committee
- Judge of the First Tier Tribunal (Land Registration)
- Highly commended at the Enfranchisement and Right to Manage Awards (ERMAs) 2022 - Barrister of the Year

Recent Cases

- **Commerz Real Investmentgesellschaft mbH v TFS Stores Limited** [2021] EWHC 863 (Ch) -

Summary judgment application for rent and service charge defended on grounds associated with COVID-19.

- **Berkeley Square Investments Limited v Berkeley Square Holdings Limited** [2019] UKUT 384 (LC) – Whether a user covenant in a long lease of business premises in Berkeley Square should be modified to permit use of the premises as a private members club.
- **Kline v Metropolitan & County Holdings** [2018] L & TR 19. On the proper construction of a lease, the demised premises included the airspace above the relevant buildings.
- **London Trocadero (2015) v Shinners** [2018] EWHC 3200 (Ch). Proprietor's claim for losses when respondent lessee went into administration - Preliminary issues.
- **Pavilion Property Trustees v Urban and Civic Projects** [2018] EWHC 1759 (Ch). Whether defendant had lost its right to refer a dispute about profit share to an independent expert.
- **Pendennis Shipyard (Holdings) v A & P Falmouth** [2017] UKUT 430 (LC). Shipyard was granted permission to modify a restrictive covenant binding part of its land so as to build or repair yachts and pleasure craft.
- **Co-operative Bank v Hayes Freehold Limited and others** [2017] EWHC 1820 (Ch). The Court refused to imply into the surrender and release of the guarantor of an underlease of which was expressed as being irrevocable and unconditional, a condition precedent that the release should only take place if the head lease was also surrendered. The Court also rejected claims made on the basis of fraudulent misrepresentation, common mistake, the rule in Pitt v Holt and unjust enrichment.
- **Hanina v McSpadden and others** [2017] County Court at Central London HHJ Parfitt. The Court determined that each of the parking spaces in a development of three properties in London should be 2.1m wide. In addition, the Claimant and Third Party successfully argued that they had acquired rights to use a communal bin store situated on the Defendant’s land by prescription. The Court also addressed issues relating to the construction of a restrictive covenant and dismissed claims for damages for trespass in relation to the use of the forecourt.
- **In the matter of Black Ant Co Limited** [2014] EWHC 1161 (Ch) (mortgages, further advances).
- **Hughmans Solicitors v Central Stream Services Limited (in Liquidation)** [2012] EWCA Civ 1720 (Priorities arising from Tomlin Order).
- **Carter v Cole** [2009] EWCA Civ 410 (Derogation from grant relating to visibility splay at end of a right of way)
- **Country Estates Construction v Oxfordshire CC** [2009] EWHC 642 (Ch) (True construction of restrictive covenant relating to landscaping strip)
- **Sava v SS Global** [2008] EWCA Civ 1308 (Adverse possession, whether acts of possession of paper title owner sufficient to negative possession of squatter)
- **Fairacres v Abdul Mohamed** [2008] EWCA Civ 1637 (Procedure; whether Court correct to uphold unless order)
- **GE Bowra Group v Thanet District Council** [2007] EWHC 2077 (Admin) (Rating; treatment of unoccupied property for non-domestic rating regulations)
- **SS Global v Sava** (Ch D (Peter Leaver QC) 28/9/2007) (Adverse possession, appeal from the Adjudicator on fact)
- **Coles v Sam Smiths Old Brewery** [2007] EWCA Civ 1461 (Validity of option to purchase; whether option binds successor in title which is wholly-owned subsidiary)
- **Leisure Employment Services v Revenue and Customs Commissioners** [2007] EWCA Civ 92 (Minimum wage legislation; whether deductions for gas and electricity bills from wages paid to employees at holiday resorts were lawful)
- **Northstar Land v Brooks** [2006] EWCA Civ 756 (Unilateral attempt to extend time for compliance with a notice to complete; estoppel by representation)
- **James Hay Pension Trustees v Cooper Estates Limited** [2005]EWHC 36 (CH) (rectification)
- **George Wimpey v VI Components** [2004] EWCH 1374 (rectification)

- **Goldstein v Conley** [2001] L&TR 400 (Leasehold Enfranchisement)
- **Ultraworth v General Accident** [2000] 2 EGLR 115 (Disrepair)
- **UYB v British Railways Board Times** 15th November 2000 (Privilege)
- **Cadogan v Morris** [1999] 1 EGLR 59 (Leasehold enfranchisement)
- **King v Dorset County Council** [1999] 1 EGLR 245 (Compulsory purchase)
- **Aldavon v Deverill** [1999] 2 EGLR 69 (Leasehold Enfranchisement)
- **Viscount Chelsea v Morris** [1997] 2 EGLR 100(Leasehold Enfranchisement)
- **Norman v Department of Transport** [1996] 1EGLR 90 (Rating)
- **Rodd v Ritchings** [1995] 2 EGLR 142 (Council Tax)

Publications

- Contributor to Woodfall on Landlord and Tenant CD-ROM
- Contributing editor of Property section of Bullen & Leake & Jacob Precedents of Pleadings (14th ed.) (2001)
- Commonhold, Law and Practice 2005 The Law Society.

Published Comments

"Gary provides exceptional legal advice and representation in highly complex business and property disputes. He has the ability to master intricate, multi-layered litigation with absolute precision. He aligns technical legal strategies with the client's broader commercial and financial objectives. He commands total grip over voluminous bundles, is calm under pressure, and maintains sharp focus and clear thinking during fast-moving, high-stakes litigation." *Legal 500 UK Bar Guide 2027*

"Gary has the ability to explain very complex legal issues to clients in simple terms; he is an excellent advocate and his advice is always very clear and commercial." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Gary is calm and authoritative, cuts quickly to the chase and quietly delivers the killer blow." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"He is very knowledgeable and an excellent cross-examiner." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Gary is a very effective advocate, with a forensic mind. He is calm and unflappable but ferociously clever and good at delivering the killer blow." *Legal 500 UK Bar Guide 2026*

"Gary Cowen KC frequently advises on complex litigation and has a great deal of experience in the Court of Appeal. Real estate forms the core of his chancery practice and he has notable experience in restrictive covenants, leasehold enfranchisement and business tenancies." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Gary Cowen is a brilliant advocate with sharp legal acumen." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Gary is quite simply superb. He is excellent with clients, a shrewd adviser and a deftly skilled advocate who will make the best of any case." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*
"Gary is a superb advocate who is deceptively cunning, thorough and tenacious." *Chambers and Partners UK*

Bar Guide 2025 (Real Estate Litigation)

"Gary brings a calm and measured approach to everything, simplifying complex legal principles effortlessly." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Gary has a very good advocacy style. He is very clear, very sensible and argues well in court." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Gary is superb. His advocacy is extremely canny: unflashy but also shrewd and unflinching." *Legal 500 UK Bar Guide 2025*

"Gary is very good indeed. He is able to make simple the most complex cases, and is a highly skilled advocate adept at landing carefully considered blows."

"Gary is very assured and technically excellent."

"Gary prides himself on taking a pragmatic and straightforward approach which always cuts through the legal issues and allows parties to focus on the commercial legal points to achieve a good workable solution."

"Gary's legal and commercial acumen is second to none, which gave us every confidence in his advice and ability to deliver results." *Chambers and Partners UK Bar Guide 2024 (Real Estate Litigation)*

‘Gary is exceptionally calm and warm in manner, which masks a ferocious intellect and sharp advocacy skills. He is particularly good at making killer points gently and unobtrusively, but very effectively.’ *Legal 500 UK Bar Guide 2024*

"Gary has a wealth of experience with a disarmingly laid-back style." *Chambers and Partners UK Guide 2023*

"Gary is top notch on the law - tactically, as an advocate and in dealing with clients." *Chambers and Partners UK Guide 2023*

"He is very reassuring, especially in court." *Chambers and Partners UK Guide 2023*

‘Gary is an incredibly approachable, pragmatic and commercially minded silk. His ability to make killer points seem a matter of fact never fails to impress. ’ *Legal 500 UK Bar Guide 2023*

Gary Cowen QC frequently advises on complex litigation, and has a great deal of experience in the Court of Appeal. Real estate forms the core of his chancery practice and he has notable experience in restrictive covenants, leasehold enfranchisement and business tenancies. "He is very good at managing the client and is an excellent advocate." "He has a breadth and depth of knowledge and provides clear advice." *Chambers UK Guide 2022 (Real Estate Litigation)*

Frequently advises on complex litigation, and has a great deal of experience in the Court of Appeal. Real estate forms the core of his chancery practice and he has notable experience in restrictive covenants and leasehold enfranchisement. Strengths: "Gary is technically excellent and his advice is clear. He is commercially aware, friendly and extremely helpful when it comes to explaining strategies to clients." *Chambers and Partners UK Guide 2021 (Real Estate Litigation)*

"Gary is technically excellent and his advice is clear. He is commercially aware, friendly and extremely helpful when it comes to explaining strategies to clients. He is happy to ‘go the extra mile’ to ensure the clients fully understand and agree with the course of action, always promoting a calm, structured and methodical approach." *Legal 500 UK Bar Guide 2021*

Frequently advises on complex litigation, and has a great deal of experience in the Court of Appeal. Real estate forms the core of his chancery practice and he has notable experience in restrictive covenants and leasehold

enfranchisement. Strengths: "Technically brilliant and provides practical and commercial advice – a joy to work with." "A good advocate who fully understands the case in front of him." "His advice is clear and concise." *Chambers and Partners UK Guide 2020 (Real Estate Litigation)*

"Highly recommended for a broad array of property disputes." *Legal 500 UK Bar Guide 2020*

Gary Cowen is an "excellent" real estate barrister, recognised by peers as "highly knowledgeable" when it comes to mortgage and leasehold enfranchisement issues. *Who's Who Legal UK Bar 2019 Guide*

"Frequently advises on complex litigation, and has a great deal of experience in the Court of Appeal. Real estate forms the core of his chancery practice and he has notable experience in restrictive covenants and leasehold enfranchisement. Strengths: 'Very considered, calm and delivers his case in a very methodical and well-structured manner." "Very thorough and clear in his advice.' 'Shows excellent attention to detail.' Recent work: Acted in Co-operative Bank v Hayes Freehold, a complex case which considered difficult questions as to the interpretation of a deed of surrender." *Chambers UK Guide 2019 (Real Estate Litigation)*