



In this series of articles, we aim to highlight 3 of the most interesting cases in our field decided in the past month. This month: WhatsApp and signed writing; service charges in mixed-use premises; and detriment in common intention constructive trusts.

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Maxine Reid-Roberts v Hsiao Mei-Lin [2026] EWHC 49 (Ch)

Summary

The High Court allowed an appeal about sale of a property in the context of a bankruptcy.

The appellants were the trustees in bankruptcy of Mr G, the former husband of the respondent, Ms L. They had been joint owners of a property. In the context of divorce and financial remedy proceedings, they had exchanged WhatsApp messages about ownership of the property. The financial remedies proceedings were then heard, and judgment was reserved for an unusually lengthy period, during which Mr G was made bankrupt. The judgment, when eventually delivered, was to the effect that Mr G should transfer his share of the property to Ms L, which he could no longer do, it having vested in his trustees in bankruptcy.

The trustees brought a claim for possession and sale of the property. Ms L asserted that the WhatsApp communications had operated to transfer Mr G's beneficial share to her. At first instance, the judge rejected that claim, but considered there were 'exceptional circumstances' within the meaning of s. 335A(3) of the Insolvency Act 1986, such that he would exercise his discretion to postpone the giving of vacant possession for over 8 years.

On appeal, the Court concluded:

1. The WhatsApp messages had not transferred any beneficial interest, albeit for different reasons than those given by the judge below.
2. There were indeed exceptional circumstances.
3. However, the judge had erred in the exercise of his discretion; a postponement of only 18 months was appropriate.

Why it's important

This case will be of interest to property practitioners primarily for its consideration of s.53(1)(c) Law of Property Act 1925 in the context of WhatsApp messages.



Although strictly obiter (as the judge concluded that the messages did not evince any intention unequivocally and immediately to relinquish an interest in the property), the judge considered that they nevertheless would not have complied with s.53(1)(c), as the name heading (relied upon as constituting a signature) applied to the whole chat rather than the individual message, and was present independently of the messages, rather than being affixed by way of authentication.

Cloisters Business Centre Management Company Limited v Hamid Anvari [2026] EWCA Civ 17

Summary

The Court of Appeal determined that s.18 Landlord and Tenant Act 1985 (which governs the applicability of the statutory residential service charge regime) applies to mixed-use premises.

The premises in question were a self-contained unit demised on a lease for use as 'offices (and ancillary residential use)'. The tenant argued, successfully in the courts below, that the premises were 'let or intended to be let as a separate dwelling' within the meaning of s.38 of the Act, and that as a result, s.18 applied the restrictions on recoverability of residential service charges.

The Court of Appeal dismissed the second appeal. Having analysed the statutory context, including history of residential service charge controls and also protections afforded to business tenants, Lewison LJ (with whom the other members of the court agreed) concluded that where Parliament had wanted to restrict protections to exclusively residential premises, it had said so. Whether or not premises were 'let or intended to be let as a separate dwelling' was a binary question: primary office use with subordinate residential use would not prevent them falling within the definition.

Why it's important

This decision is key to note for all practitioners dealing with mixed-use premises. The 1985 Act regime requires compliance with a number of procedural requirements and also allows tenants to challenge the payability of service charges on grounds of reasonableness. Practitioners working with leases containing provisions for mixed use – be that live/work units, or, as here, leases providing for 'ancillary' use – should consider carefully whether the residential regime applies in view of this decision.



Jamal Uddin v Fakar Uddin [2026] EWHC 150 (Ch)

Summary

The High Court allowed an appeal against a judge's finding that a common intention constructive trust had been created.

The appeal concerned a dispute between two brothers, J and F, about beneficial ownership of a property. Dispute at trial had focused on events at a family meeting at a time when the property was registered in joint names and was beneficially held by the brothers in equal shares. The judge had found that J had orally agreed at the meeting to give up his share, leaving the property entirely within F's ownership. The judge analysed this as creating a common intention constructive trust (meaning there was no need for signed writing to comply with s.53(1)(c) Law of Property Act 1925).

Adam Johnson J allowed the appeal. The judge had, as a result of how the issues had been framed before him, focused on the question of whether or not agreement had been reached at the meeting. However, the question of detriment had not been addressed, and the matter may need to be remitted for that to be done.

Why it's important

This case is a salutary reminder of the requirements for the creation of a common intention constructive trust: it is necessary to establish not only a common intention but also detrimental reliance on that intention. Practitioners should take care to ensure that evidence addresses this crucial step.

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