

## Charles Auld

Barrister



YEAR OF CALL: 1980

“ Charles is an expert in right of way issues, adverse possession and boundary disputes. 'Exceptionally knowledgeable and approachable counsel.' 'He is incredibly friendly, incredibly commercial and gets on very well with clients.' ”

Chambers UK, 2018  
Chancery

### Practice Overview

Charles is a commercial and chancery barrister specialising in both commercial disputes and more traditional chancery matters. He has a particular expertise in land registration and land-related cases, and frequently represents clients in property disputes; he is also adept in related professional negligence claims and Will challenges.

In recent years he has appeared successfully in the Court of Appeal in a number of matters relating to disputes about land, and in cases relating to gifts procured by undue influence. In disputes about land, his experience includes boundary litigation, restrictive covenants, rights of way and mobile home parks.

In probate matters he has appeared in cases concerning the construction and validity of wills and also the Inheritance Act 1975. His commercial cases have ranged from disputes about light aircraft (in which he has a particular interest) to matters relating to the refurbishment of buildings.

Charles also writes on legal topics, with articles published in the Conveyancer on the First-tier Tribunal and in the New Law Journal on costs budgeting and on the temporary closure of highways for sporting events.

### Areas of Expertise

#### Commercial

Charles' practice deals with a significant number of commercial cases. These have included a dispute over the importation of golf clubs from China, which was successfully concluded in the Court of Appeal (*Taiwan Scot v Masters* [2009] All ER (D) 221), and also one relating to the quality of boat trailers.

Charles has a particular interest in aviation related matters (he holds a Private Pilot's Licence) and has dealt with a number of disputes about aircraft. For example he has conducted cases in Court where an aircraft owner is in a dispute with his maintenance provider. He also advises on compliance with relevant statutory provisions, for example the Air Navigation Order 2016.

He has conducted cases in the Court of Appeal over whether a contract is void for uncertainty (*Scammell v Dicker* [2005] 3 All ER 838) relating to the construction of a solicitor's undertaking (*Reddy v Lachlan* [2000] Lloyd's Rep PN 858) and to the setting aside of a statutory demand (*Platts v Western Trust and Savings* [1996] BPIR 339).

## Professional Negligence

Charles specialises in professional negligence arising from land transactions that have gone wrong. This has included where a purchaser has not obtained all of the land he expected or where a sale has included land which the seller did not intend to sell. A recent case involved acting for a purchaser of a recently renovated and extended property who discovered, after moving in, that his neighbours had a right of way through his main living room. Charles is also familiar with claims for compensation from the Land Registry arising from a mistake in the register.

## Real Estate

Charles has considerable experience dealing with real estate matters including boundary disputes, landlord and tenant work, rights of way, restrictive covenants and registration at HM Land Registry.

### His work includes:

- ▶ Disputes over land including traditional boundary disputes, restrictive covenants, rights of way and other easements (*Wheeler v Saunders* [1996] Ch 19 and *Shaw v. Grouby* [2017] EWCA Civ 233). In *Melhuish v Fishburn* [2009] All ER(D) 23 he was successful in the Court of Appeal in an action concerning the interaction of boundary agreements and section 2 of the Law of Property (Miscellaneous Provisions) Act 1989.
- ▶ Landlord and tenant disputes, both residential (*Springfield Investments v Bell* [1991] 1 EGLR 115 CA) and commercial (*Toms v Ruberry* – [2018] 1 WLR 1138).
- ▶ Matters relating to mobile homes and mobile home parks (*Howard v Kinvena Homes* (1999) 32HLR541).
- ▶ Applications to the Property Chamber of the First-tier Tribunal and previously to the Adjudicator (*Mann v Dingley* [2011] EWLandRA 2010\_0582).
- ▶ Disputes between potential purchasers and developers of new-build residential properties where the purchasers, because of declining values, wish to be released from their contracts or where the developer wishes to ensure that the purchasers can be obliged to purchase (*Eminence Properties v Heaney* [2011] 2 All ER (Comm) 223).
- ▶ Highway access questions.

## Wills & Trusts

Charles has considerable experience of advising on the construction of wills and of trust instruments (together with applications to the Court for directions where necessary). His practice includes cases where the validity of a will is in dispute including whether that will has been obtained by undue influence.

He was successful both at first instance and in the Court of Appeal in *Hart v Burbidge* [2014] EWCA Civ 992 which involved gifts procured by undue influence. He has often dealt with matters where the claim is that an interest in a property has been obtained by proprietary estoppel and he is familiar with applications under the Trusts of Land and Appointment of Trustees Act 1996 and also the Inheritance (Provision for Family and Dependents) Act 1975.

Recent cases have included a matter where trustees and adult beneficiaries were deadlocked and also a case where a beneficiary had unilaterally improved a house subject to a trust. He also has experience of acting for

interveners in matrimonial disputes where the question of who owns particular assets has needed to be decided.

### *Disputed Wills*

In addition to advising on the construction of wills, Charles has considerable experience of cases where the validity of that will is in dispute. Often this is because the testator is said to have lacked the necessary mental capacity to make a will, but it has also included where wills have been forged or have been obtained by the undue influence.

### *Inheritance Act 1975 Claims*

Charles often deals with cases arising under the Inheritance (Provision for Family and Dependants) Act 1975. Recent cases have included acting for a husband who was unintentionally disinherited by the will of his much younger wife (because they never thought she might die before him) and also for the mistress of a wealthy businessman. He has particular experience of cases involving claims by elderly surviving spouses where the question has been whether the Court should order a transfer of capital assets or if a life interest would be sufficient.

## Recent cases

- ▶ *Hart v Burbidge* [2014] WTLR 1361 CA
- ▶ *Eminence Properties v Heaney* [2011] 2 All ER (Comm) 223 CA
- ▶ *Taiwan Scot v Masters* [2009] All ER(D) 221 CA
- ▶ *Melhuish v Fishburn* [2009] All ER(D)23 CA
- ▶ *Looe Fuels v Looe Harbour Commissioners* [2008] All ER(D) 305 CA
- ▶ *Scammell v Dicker* [2005] 3 All ER 838 CA
- ▶ *Reddy v Lachlan* [2000] Lloyds Rep PN 858 CA
- ▶ *Howard v Kinvena Homes* [1999] 32 HLR 541 CA
- ▶ *Platts v Western Trust and Savings* [1996] BPIR 339 CA
- ▶ *Wheeler v Saunders* [1996] Ch 19 CA
- ▶ *Springfield Investments v Bell* [1991] 1 EGLR 115 CA

## Recommendations

"Respected junior with a broad practice in commercial disputes and traditional chancery. He specialises in land registration and land cases, as well as commercial property matters. 'He's very capable, pragmatic and brilliant with clients.' "

CHAMBERS UK, 2020  
CHANCERY

"A thoroughly knowledgeable advocate who gives practical advice."

LEGAL 500, 2020  
COMMERCIAL, BANKING, INSOLVENCY AND CHANCERY LAW

"He has an incredible depth and breadth of knowledge."

LEGAL 500, 2019  
PROPERTY

"Manages a successful property practice, and is an expert in right of way issues, adverse possession and boundary disputes. 'Excellent at all aspects of the job. He is great with clients, controls the courtroom and has a very effective manner with judges. He has a first-class legal brain with plenty of commercial sense as well.' 'He argues cases brilliantly in court.' "

CHAMBERS UK, 2019  
REAL ESTATE LITIGATION

"Charles specialises in land registration and land cases, as well as commercial property matters. 'He is very able. He's good with communication, he never lets anything go – he will work all through the weekend. His advice has always been very sound.' 'He's very experienced.' "

CHAMBERS UK, 2019

CHANCERY

"Highly analytical with a charming client manner."

LEGAL 500, 2019

COMMERCIAL, BANKING, INSOLVENCY AND CHANCERY LAW

"A great strategist who can make the most complex matters straightforward."

LEGAL 500, 2019

PROPERTY

## Related Articles

- ▶ Consecrated ground: whose vault is it?
- ▶ Section 146: a modern interpretation
- ▶ Costs Budgeting
- ▶ The New Land Registration Tribunal: Neither Fish nor Fowl?

## Professional memberships:

- ▶ Chancery Bar Association

## Qualifications & awards:

- ▶ BA (Dunelm)

## Contact Charles:

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