



PROPERTY LAW
NUTS & BOLTS
SEMINAR SERIES

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Property Law Nuts & Bolts, Part 4: ‘Charging Orders and Enforcement’ webinar

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Your speakers today are...



David Nicholls (Chair)



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Topic:
Priorities



Brooke Lyne

Topic:
Orders for Sale



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Topic:
Charging Orders

Charging Orders



Joel Semakula

Overview

1. General principles
2. The court's discretion
3. Procedure

(1) Introduction: What is a charging order?

“A charging order is an order made by the court charging some specified property of the judgment debtor with the ability to satisfy the judgment debt and is thus a mode of enforcement of money judgments and orders. It operates to give the judgment creditor security for the payment of the amount due under the judgment and produces the fruits of the judgment not at the time when the charge is imposed but at the time when the charge is enforced.” -- ***Report of the Committee on the Enforcement of Judgment Debts, 1969.***

Sources of Law

- Charging Orders Act 1979: substantive law
- Part 73 of the Civil Procedural Rules: procedural law

Section 1 – COA 1979

s.1(1) COA 1979:

“Where, under a judgment or order of the High Court or the family court or the county court, a person (the “debtor”) is required to **pay a sum of money** to another person (the “creditor”) then, for the purpose of enforcing that judgment or order, the appropriate court **may** make an order in accordance with the provisions of this Act **imposing on any such property of the debtor as may be specified in the order a charge for securing the payment of any money due or to become due under the judgment or order.**”

- “Sum of money” does include
 - industrial tribunal awards - Employment Tribunals Act 1996, s.15;
 - awards for repayment to the Secretary of State for Social Security - Social Security and Housing Benefits Act 1982, s.41;
 - fines and other penalties imposed by magistrates - Magistrates’ Courts Act 1980, s.87;
 - arbitral awards - Arbitration Act 1996, s.66).

What can be charged?

Section 2 COA 1979:

(1) Subject to subsection (3) below, a charge may be imposed by a charging order only on—

(a) any interest held by the debtor beneficially—

(...)

(b) any interest in land held by a person as trustee of a trust (“the trust”), if:

(i) the judgment or order in respect of which a charge is to be imposed was made against that person as trustee of the trust, or

(ii) the whole beneficial interest under the trust is held by the debtor unencumbered and for his own benefit, or

(iii) in a case where there are two or more debtors all of whom are liable to the creditor for the same debt, they together hold the whole beneficial interest under the trust unencumbered and for their own benefit.

(2) The Court's discretion

Section 1(5) COA 1979:

“In deciding whether to make a charging order the court shall consider **all the circumstances of the case** and, in particular, any **evidence before it** as to—

- (a) the personal circumstances of the debtor, and
- (b) whether any other creditor of the debtor would be likely to be unduly prejudiced by the making of the order.

Personal circumstances of the debtor: family homes

- The courts seek to balance a judgment creditor's entitlement to obtain security for the judgment debt with the claims of the debtor's spouse and children.
 - *“Each case depends upon striking a fair balance between the normal expectations of the judgment creditor and the hardship to the wife and children if a charging order is made.”* – per Moore-Bick LJ in ***Kremen v Agrest*** [2013] EWCA Civ 41
- The court can also take into account hardship that will be suffered by the judgment creditor if the charging order is not granted: ***Harman v Glencross*** [1986] Fam 81.

Insolvency

- Section 1(5)(b) COA 1979: court must consider whether a charging order would unduly prejudice other creditors.
- Once a bankruptcy petition has been presented the court is unlikely to make to make a final charging order as this would prefer one creditor: see ***Roberts Petroleum Ltd v Bernard Kenny Ltd (In Liquidation)* [1983] 2 W.L.R. 305**
- The judgment creditor can retain the benefit of a charging order only if the final order was made before presentation of the petition (ss.83 and 346 of the Insolvency Act 1986).
- Where the judgment debtor obtains an interim under the IA 1986 because he intends to enter into a voluntary arrangement with his creditors, the court's consent is required to any application for an interim or final charging order.
- Any charging order obtained in ignorance of an interim order under the IS 1986 is liable to be set aside.

Human Rights: Art 8 and A1P1?

*“It is of course in accordance with the law that a charging order has been made and, to the extent that it is now enforced, that will be in accordance with the law also. It will also be in the public interest to enforce charging orders generally because of the economic importance of ensuring that there is an efficient machinery for the enforcement of debt obligations(...) in applying the court’s discretion, **it must be applied in a way which gives due respect to the right of all those living in the property, not just the debtors, to have respect for their family life and their home.** Against that must be weighed the rights of the chargee under the equitable charge... not to have to wait indefinitely for payment or to have no means of enforcing its security.”*

– **Close Invoice Finance Ltd v Pile [2008] EWHC 1580** (Ch), per Judge Purle at [12] and [13].

When is a charging order appropriate?

- Most effective method of enforcement when there is **substantial equity in land** and the judgment **debtor is the sole owner**.
- Does not guarantee prompt payment: but a charging order against debtor's property may induce **faster payment**.
- Useful where a **debtor lacks liquidity** and where other forms of execution would not recover the debt.
- May not be appropriate if there are **significant prior charges** over the property – the amount secured by prior charges may increase.
- Not appropriate if the debtor has **no beneficial interest** in the property.

Key advantages

1. Priority over unsecured creditors.
2. Partially secured creditor may become fully secured if value of charged property increases over time.
3. Secures judgement debt *and* interest.
4. Interim charging order can be obtained on an application without notice, preventing the debtor from disposing of his property.

(3) Procedure for obtaining a charging order

- Part 73 of the CPR
- PD 73

(1) The application

(2) The making of an interim charging order

(3) The making of a final charging order

(i) The “appropriate court”

When is an application to be made to the County Court? Section 1(2) COA 1979:

- Where the debt is less than £5,000 (the County Court Limit)
- Where the debt is more than £5,000, the application can be made in the County Court or the High Court.

Except:

- Where the order to be enforced is an order of the family court (appropriate court is the family court)
- Where the order to be enforced is a maintenance order of the High court or an order for costs made in family proceedings in the High Court (appropriate court is the High Court or family court)
- “Where an application for a charging order is to be made to the County Court, it **must be made to the County Court Money Claims Centre**”: CPR 73.3(2)

(i) The application notice

Practice Direction to Part 73: **Form N379**.

Application notice must contain:

- (1) the name and address of the judgment debtor;
- (2) details of the judgment or order sought to be enforced;
- (3) the amount of money remaining due under the judgment or order;
- (4) if the judgment debt is payable by instalments—
 - (a) whether the order was made on or after 1 October 2012; and
 - (b) the amount of any instalments which have fallen due and remain unpaid;
- (5) if the judgment creditor knows of the existence of any other creditors of the judgment debtor, their names and (if known) their addresses;
- (6) identification of the asset or assets which it is intended to charge including, where applicable, the title number under which any land upon which it is sought to impose a charge is registered;
- (7) details of the judgment debtor's interest in the asset; and
- (8) the names and addresses of the persons on whom an interim charging order must be served under rule 73.7.

(i) Application tips

- (1) Attach a copy of the judgment or order to the application.
- (2) Multiple judgements / assets
 - May apply for a single charging order in respect of multiple judgments against the same debtor: CPR r.73.3(4)
 - May apply in one application notice for charging orders over more than one asset. However, the court will draw up a separate order relating to each asset: PD 73.1.3
- (3) Give as much detail as possible about the land and attach office copy entries to the application.
- (4) Give as much detail as possible in respect of any beneficial interest.
- (5) Remember that the applicant is asking the court to exercise its discretion, and that objections may subsequently be made to the order becoming final – make full use of the “Further Information” box!
- (6) Build as strong a case as possible by setting out any information which would justify the court making the order, e.g. the creditor’s financial position, any refusals to pay, any other methods of enforcement previously attempted.

(ii) The Interim Charging Order

CPR r.73.4.

- The application for a charging order will initially be dealt with without a hearing.
- Interim Charging Order usually made by a court officer, except:
 - (a) orders made against a person as trustee of a trust.
 - (b) partnership property
 - (c) where an instalment order made before 1st October 2012
 - (d) where the court officer otherwise considers that the application should be dealt with by a judge.
- High success rate
- Where the order is made by the judge, that judge will consider whether it is appropriate to transfer the application to the judgment debtor's home court.

(ii) Request for review of the officer's decision

CPR 73.5(1): “A party may request that a decision by a court officer be reconsidered by a District Judge”.

- A request for reconsideration **must be filed within 14 days** after the party is served with notice of the decision.
- Reconsideration will take place without a hearing: CPR 73.5.
- Request must be in writing but not necessarily as an application under part 23 – there is no requirement for an application fee to be paid.
- The party making a request for reconsideration should include the reasons why a reconsideration is being sought.

(ii) Service of the Interim Charging Order: County Court Money Claims Centre

CPR r.73.7

- Where the interim charging order has been made at the County Court Money Claims Centre and has not been transferred out of that Centre for a hearing, copies of (1) the interim charging order, (2) the application notice and (3) any documents filed in support of it **must** be served by the judgment creditor on the persons listed in paragraph (7) **within 21 days of the date of the interim charging order**.
- The judgment creditor **must file** (1) a certificate of service in relation to each person served together with (2) a statement of the amount due under the judgment or order including any costs and interest, **within 28 days of the date of the interim charging order**.
- If the judgment creditor fails to comply, and does not apply for an extension of time within the period specified, the matter must be referred to a judge to consider whether to dismiss the application and discharge the interim charging order.

(ii) Service of the Interim Charging Order: other courts

- Where the interim charging order has been made at a court other than the County Court Money Claims Centre, or where the matter has been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must, **not less than 21 days** before the hearing, be served by the judgment creditor on the persons listed in paragraph (7).
- In this case, the judgment creditor must either (i) file a certificate of service in relation to each person served not less than 2 days before the hearing, or (ii) produce a certificate of service at the hearing.

(ii) Who must be served with the Interim Charging Order by the judgment creditor: para (7) of r.73.7

- (1) the judgment debtor;
- (2) any co-owner;
- (3) the judgment debtor's spouse or civil partner (if known);
- (4) such other creditors as are identified in the application notice or as the court directs;
- (5) if the order relates to an interest under a trust, on such of the trustees as the court directs.
- (6) Various other people if interest charged is in securities other than securities held in court and funds in court

Legal effect of service of the ICO - land

- Charging order only applies to debtor's beneficial interest
- Puts co-owners on notice
- Must be registered to be effective

Registering the Charge – registered land

- Notice
- Restriction
- Where the judgment debtor is a co-owner, it is usually more appropriate to lodge a restriction rather than a notice.

(iii) Further consideration in the County Court Money Claims Centre

CPR r.73.10

- Any person who objects to the court making a final charging order **must** file and serve on the judgment creditor written evidence stating the grounds of objection, **not later than 28 days after service on that person of the application notice and interim order.**
- The court must then transfer the application to the judgment debtor's home court for a hearing, and must serve notice of the hearing on the judgment creditor and all persons served with the Interim Charging Order.
- If no objections are received, the application will be considered by a judge upon the expiry of the 28 day period for filing objections.

(iii) Tips for objections

- If a person objects to the court making a final charging order, they must file and serve written evidence not less than seven days before the hearing (CPR 73.10A).
- A debtor needs to make as compelling a case as possible ahead of the final hearing, including details of any children or dependent adults living in the property, and any disabilities or medical issues.
- Where further time to pay is sought, details of income and outgoings should be provided, along with information on assets and debts.

(iii) The Final Charging Order

- Judge will decide whether to make a final charging order either (1) at a hearing following the filing of an objection, or (2) on paper on the expiry of the 28 day period.
- the court may:
 - (a) **make a final charging order** confirming that the charge imposed by the interim charging order continues, with or without modification;
 - (b) **discharge the interim charging order** and dismiss the application;
 - (c) **decide any issues in dispute between the parties**, or between any of the parties and any other person who objects to the court making a final charging order;
 - (d) **direct a trial of any such issues**, and if necessary give directions; or
 - (e) **make such other order** as the court considers appropriate.

NOTE: a court may also determine that a judgment debtor needs more time to put their case together and adjourn the hearing.

(iii) Service and Costs

- The court must serve the final charging order on any person required to be served with the interim charging order.
- Fixed costs apply to the *making* of a final charging order: r.45.8 + table 5

On the making of a final charging order under rule 73.10(7)(a) or 73.10A(3)(a):

£110.00

The court may also allow reasonable disbursements in respect of search fees and the registration of the order.

(iii) Discharge of a Final Charging Order

Section 3(5), COA 1979

- The court may, at any time, on the application of the debtor or of any other interested person, make an order discharging or varying the charging order

CPR r.73.10B

- **Where the final charging order was made without a hearing**, any application to discharge or vary a charging order must be made to the County Court Money Claims Centre.
- Upon the filing of an application to discharge or vary a charging order at the County Court Money Claims Centre, the application must be transferred for a hearing to the judgment debtor's home court.
- Where the final charging order was made at a hearing, any application to discharge or vary a charging order must be made to the court which made the charging order.
- The court may direct that any interested person be joined as a party to such an application and that the application be served on any such person.
- An order discharging or varying a charging order must be served on all the persons on whom the charging order was required to be served.

Conclusions

- A charging order is essentially a county court remedy, but it is discretionary.
- A charging order over land is an equitable charge and therefore subject to any prior charges on the property (section 3(4), COA 1979).
- Although there is a high success rate for obtaining interim charging orders, clients should be advised that there is no guarantee of obtaining a final charging order.
- There are cost risks of obtaining an interim charging order on a dubious basis.
- Equally, there is little point in incurring costs objecting to an order being made final unless there are good grounds for objecting: a final charging order does not mean that a sale of the property is imminent.
- The application form is very important and is the applicant's opportunity to get as much information before the court as possible. A strong application may deter speculative objectors.

Orders for Sale



Brooke Lyne

Introduction

- What is an order for sale?
- Why might you want one?
- Should I seek one?



Jurisdiction - sole legal and beneficial owner of land

- Charging Order Act 1979, section 3(4)
“a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand.”
- Where the Debtor is the sole legal and beneficial owner, jurisdiction arises from this statutory engagement of the court’s inherent equitable jurisdiction
- CPR 73.10C(1)
“Subject to the provisions of any enactment, the court may, on a claim by a person who has obtained a charging order over an interest in property, order the sale of the property to enforce the charging order”

Jurisdiction – co-beneficial owners of land

- Trusts of Land and Appointment of Trustees Act 1996, section 14
 - The court may make order for sale of a legal estate upon application “from any person who is a trustee of land or has an interest in the property subject to a trust of land”

Exercise of discretion – generally

- Orders for sale are discretionary
- CPR 73.10C.1

“It is one thing to make a charging order giving security to the judgment debtor and quite another thing to order a sale of the judgment debtor’s property... it would be an extreme sanction and all the circumstances would have to be considered... to order sale is a draconian step to satisfy a simple debt and is likely to be ordered for example, in a case of the judgment debtors contumelious neglect or refusal to pay or in a case where in reality without a sale the judgment debt will not be paid”

“Of course different considerations would apply if it were not the debtor’s home and they held the property as a second home or as an investment.

Exercise of discretion – generally

- The welfare of those in the property (*Forrester Ketley v Brent and Palette* [2009] EWHC 3441)
- This applies even where debtor sole legal and beneficial owner (*Close Invoice Finance v Pile* [2009] EWHC 1580 (Ch))
- Article 8 ECHR
 - There may be circumstances where courts must specifically consider proportionality (*Natwest v Rushmer* [2010] EWHC 554 (Ch))

Exercise of discretion – generally

- Attitude of debtor towards paying the debt and conduct to date
- The prospects of the debt being paid without an order for sale
- Whether the sale would be unlikely to realise sufficient funds to settle or significantly reduce the debt secured by the charge e.g. *Amari Lifestyle Ltd (T/A Amari Super Cars v Warnes)* [2017] EWHC 1891 (Ch).
- Ratio of debt to the value of the charged asset
 - “no rules or presumptions” (*Packman Local v Mentmore* [2010] EWHC 1037 (TCC))
- The attitude of other secured creditors

Exercise of discretion – co-beneficial interest cases

- If the court is exercising its discretion under s.14, TOLATA then the it must consider the factors listed s.15:
 - (a) the intentions of the person or persons (if any) who created the trust;
 - (b) the purposes for which the property subject to the trust is held;
 - (c) the welfare of any minor who occupies or might reasonably be expected to occupy any land subject to the trust as his home, and;
 - (d) the interests of any secured creditor of any beneficiary.
 - (e) The circumstances and wishes of any beneficiaries of full age and entitled to an interest in possession subject to the trust or (in case of dispute) of the majority (according to the value of their combined interests)

Exercise of discretion – co-beneficial interest cases

- The rights of creditor remain a powerful consideration (*Mortgage Corp v Shaire* [2001] Ch 743)
- The interests of families will not necessarily outweigh those of creditors (*Bank of Ireland v Bell* [2001] All ER (Comm) 920)

Financial Threshold In Regulated Agreement Cases

- The Charging Orders (Orders for Sale: Financial Thresholds) Regulations 2013 (SI 2013/491)
- These Regulations came into force in 2013
- They apply where a charging order has been made to secure payment under a “regulated agreement” (within Consumer Credit Act 1974 s.189(1)).
- No order for sale can be made to recover an amount less than £1,000.
- Pretty useless and feeble.

Procedure – which court?

- CPR 73.10C(3)
“a claim for an order for sale should be made to the court which made the charging order unless that court does not have jurisdiction to make an order for sale”
- CPR 73.10C(2)
“Where the charging order was made at the County Court Money Claims Centre a claim for an order for sale... must be made to the judgment debtor’s home court”

Procedure – which court?

- County Court:
 - Where judgment debt is no more than £350,000
- High Court
 - Where judgment debt exceeds £350,000
 - Should be brought in Chancery Division (but, see *Packman Lucas v Mentmore Towers* [2010] EWHC 1037 (TCC))



Procedure

- New proceedings are required
- CPR 73.10C(4): the claimant **must** use the Part 8 procedure
 - Form N208
- CPR 73.10C(5): a copy of the charging order **must** be filed with the claim form

Procedure – the parties?

- In all cases the claim form must list as defendants:
 - The debtor; and
 - All other known adult occupiers of the property (whether tenants or otherwise) against whom possession will be sought as a precursor to order for sale
- When debtor is co-beneficial owner:
 - The legal owners
 - Other beneficial owners
- Other interested persons, such as secure creditors should be notified about the proceedings but do not necessarily need to be listed as parties

Evidence – Practice Direction 73

“4.3 The written evidence in support of a claim under rule 73.10C **must** –

- (1) identify the charging order and the property sought to be sold;
- (2) state the amount in respect of which the charge was imposed and the amount due at the date of issue of the claim;
- (3) verify, so far as known, the debtor's title to the property charged;
- (4) state, so far as the claimant is able to identify –
 - (a) the names and addresses of any other creditors who have a prior charge or other security over the property; and
 - (b) the amount owed to each such creditor; and
- (5) give an estimate of the price which would be obtained on sale of the property;
- (6) if the claim relates to land, give details of every person who to the best of the claimant's knowledge is in possession of the property; and...”

Evidence – Practice Direction 73

“...(7) if the claim relates to residential property –

(a) state whether –

(i) a land charge of Class F; or

(ii) a notice under section 31(10) of the Family Law Act 1996, or under any provision of an Act which preceded that section, has been registered; and

(b) if so, state –

(i) on whose behalf the land charge or notice has been registered; and

(ii) that the claimant will serve notice of the claim on that person.

4.4 The claimant must take all **reasonable steps** to obtain the information required by paragraph 4.3(4) before issuing the claim.”

Evidence

- (1) Identify the charging order and property sought to be sold
 - Covered in witness statement and copy of title (if available)
- (2) State the amount in respect of which the charge was imposed and the amount due at the date of issue of the claim
 - Calculate judgment interest on the principal debt and any costs

Evidence

- (3) Verify, so far as known the debtor's title to the property charged
 - In most cases land will be registered, so an official copy entry of title will be enough
 - Where land is unregistered, then the title deeds may be required
 - Further evidence of a beneficial interest (e.g. trust deed, witness statement, etc.)

Evidence

- (4) State names of other creditors with a prior charge or other security
 - Consulting title document is likely to be sufficient.
 - Creditors should contact third parties with charges over the property to confirm the current debt
- (5) Give estimate of the price which would be obtained on sale of the property
 - Creditors should obtain external/ “drive-by” valuation from estate
 - agent/surveyor

Evidence

- (6) If the claim relates to land, details of every person who to the best of the claimant's knowledge is in possession of the property
 - In some cases it may not be possible for the Claimant to obtain this information e.g. where it is occupied under a short-term let
 - The court will be particularly concerned to know if it is a family home and/or occupied by children or vulnerable adults

Evidence

- (7) Class F land charge or notice under s.31(10) Family Law Act 1996 (or under any provision of an Act which preceded that section
 - Essentially to identify whether debtor's spouse or partner has home rights
 - For registered land: Land Registry search using form HR3
 - For unregistered land: Official search at the Land Charges Department

The Order

- Most orders are conditional or suspended to give the debtor one final opportunity to satisfy the debt before the property is sold
- The order will usually make provision for the property to be sold for a sum not less than £X
 - The Claimant can apply back to reduce this figure if necessary
 - The Court is not required to get the best price for the property (*Re Kingsley* [2020] EWCA Civ 297)

The Order

- The order will usually make provision for the practical aspects of the sale e.g. conveyancing solicitors to be appointed
- The order will usually include a possession order requiring the occupiers to leave before a certain date

The Order

- The order will set out how the proceeds of sale shall be applied once the property is sold
- Creditors will usually be entitled to costs
- There are two precedent orders in Appendix A, Practice Direction 73
- These are not prescribed forms of order and they may be adapted or varied by the court to meet the requirements of individual cases.

Breathing Space and Mental Health Moratorium

- Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.
- A creditor cannot take steps in respect of a debt unless given permission by the court
- *Kaye v Lees*[2022] EWHC 3326
- *Kaye v Lees* [2023] EWHC 152

Priorities



Evie Barden



Charging Orders Act 1979

Section 3:

(2) The Land Charges Act 1972 and the Land Registration Act 2002 shall apply in relation to charging orders as they apply in relation to other orders or writs issued or made for the purpose of enforcing judgments.

[...]

(4) Subject to the provisions of this Act, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand...”

First in time



But...

Section 29 of the Land Registration Act 2002:

“(1) If a registrable disposition of a registered estate is made for valuable consideration, completion of the disposition by registration has the effect of postponing to the interest under the disposition any interest affecting the estate immediately before the disposition whose priority is not protected at the time of registration.

(2) For the purposes of subsection (1), the priority of an interest is protected—

(a) in any case, if the interest—

(i) is a registered charge or the subject of a notice in the register,

(ii) falls within any of the paragraphs of Schedule 3, or

(iii) appears from the register to be excepted from the effect of registration, and

(b) in the case of a disposition of a leasehold estate, if the burden of the interest is incident to the estate...”

Priority between registered mortgages and charges of registered land

Section 48 of LRA 2002:

“(1) Registered charges on the same registered estate, or on the same registered charge, are to be taken to rank as between themselves in the order shown in the register.

(2) Rules may make provision about—

(a) how the priority of registered charges as between themselves is to be shown in the register, and

(b) applications for registration of the priority of registered charges as between themselves.”

How to protect a charging order?

- Equitable charge.
- Therefore, not a registrable disposition.
- Unilateral notice?
- Restriction?



Situation (1)

- Unless the PRs first discharged the charge, R2 will take subject to the charge.
- There is no “consideration” for the purposes of section 29 of LRA 2002.
- NB: “valuable consideration” can’t include marriage consideration or nominal consideration in money: section 132(1) of LRA 2002.
- So, the PRs need to discharge the charge prior to transfer.

Situation (2)

- *Hughmans Solicitors v Central Stream Services Ltd* [2012] EWCA Civ 1720.
- At first instance, Briggs J (as he then was) found that a charging order is not created for valuable consideration. The basic priority rule in section 28 of LRA 2002 applied. Thus, the unregistered equitable interest had priority.
- At CoA, this was accepted (para [30]) but Hughmans said that, on a sale, any purchaser would be bound by their interest but would take free from the equitable interest.
- Held this ignored Co's right to require Hughmans to remove the UN1.

Situation (3)

- Sections 29 of LRA 2002: P's interest is bound by C's.
- BUT overreached: see section 2 of the Law of Property Act 1925.
- So, P will take free from C's interest.

Situation (4)(a) and (b)

- Before anyone is registered, it is a question of the time the interest was created.
- Does it matter if C registers a UN1 prior to completion of registration of R2?
- After someone gets on the title, what is the effect of section 29 of LRA 2002?

Situation (5)

- Mortgage has priority over the ICO and the unregistered charge.
- Unregistered charge has priority over the ICO because entry of the notice in respect of the ICO is not a registrable disposition for valuable consideration, so determined by section 28 of LRA 2002.

Thank you for listening

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