KINGS CHAMBERS

Mortgage Update Seminar 2018

Nigel Clayton

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Caselaw Update

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Charging Orders

Midtown Acquisitions LP v Essar Global Fund Ltd (Unrep QBD 16 Jan 2018)

Priorities – 'first past the post' principle

Santos-Albert v Ochi [2018] EWHC 1277 (Ch)

Scope of amendments allowed under the 'slip rule'

Sparkasse Koln Bonn v Cutts [2018] EWHC 1879 (Ch)

Third parties – case management

Caselaw Update

Charging Orders

Midtown Acquisitions LP v Essar Global Fund Ltd (Unrep QBD 16 Jan 2018)

January 2018 Update

- 2 x creditors each obtain substantial judgments against D Co – both apply for charging orders
- C1 gets interim order 6 weeks before C2. Both then apply for final orders at the same time
- C1 claims it is 'first past the post' and that its charge should rank ahead of C2
- C2 claimed they should rank equally

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Charging Orders

Midtown Acquisitions LP v Essar Global Fund Ltd (Unrep QBD 16 Jan 2018)

January 2018 Update

- A charging order (an equitable charge) in respect of a legal title can be protected, and priority obtained by a unilateral notice (no priority can be obtained in respect of charging order over a beneficial interest, save by way of Form K Restriction)
- The effect of the priority rules in ss 28-30 Land Registration Act 2002 is that the priority of competing equitable charges is governed by their date of creation, not the date of registration – hence the significance of the court determining which of two competing applications for charging orders to grant first
- See generally HMLR Practice Guide 76: Charging orders

Caselaw Update

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Charging Orders

Midtown Acquisitions LP v Essar Global Fund Ltd (Unrep QBD 16 Jan 2018)

January 2018 Update

- 'First past the post' is not a rule or principle
- Under s 1 Charging Orders Act 1979 the court has a discretion whether to grant a charging order or make it final
- Correct approach is to seek to achieve an equitable result having regard to all the circumstances of the case
    - Both commercial parties; no advantage or delay caused by D; no reason to prefer one party over the other
- C1 should enjoy priority

Caselaw Update

Charging Orders

Santos-Albert v Ochi [2018] EWHC 1277 (Ch)

May 2018 Update

- S obtains £5,000 money judgment v O, plus an order for costs to be assessed, subject to an interim payment of £10,000 (not paid)
- S gets a final charging order for £15,000 + interest + £408 fixed costs of the application
- S applies [by letter to the DJ, not copied to O] to amend the order under the slip rule to include S's costs which had by then been provisionally assessed at £40,617.26

Caselaw Update

Charging Orders

Santos-Albert v Ochi [2018] EWHC 1277 (Ch)

May 2018 Update

- DJ amends the order to recite that O's interest stands charged with the amount now owing under the judgment + interest + fixed costs
- S's costs assessed at £42,717.86
- S issues Part 8 Claim for order for sale for total amount of £55,997.44
- O appeals against DJ's refusal to set aside amended order on the basis that the court had no jurisdiction to make the order under the slip rule

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Charging Orders

Santos-Albert v Ochi [2018] EWHC 1277 (Ch)

May 2018 Update

- Slip rule is in CPR 40.12

> The court may at any time correct an accidental slip or omission in a judgment or order.

- Its purpose is to ensure the order conforms to what the court intended – there to correct errors, not to permit the court to have second thoughts or add something not in the contemplation of the parties

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Charging Orders

Santos-Albert v Ochi [2018] EWHC 1277 (Ch)

May 2018 Update

- Although it was open to the DJ to amend the order to reflect what was intended, since the costs had not been assessed by then, they could not form part of the 'amount owing' and did not therefore form part of the charging order
- It is possible to include an uncertain future amount in a charging order for e.g. by reference to 'costs becoming due upon final assessment'

Caselaw Update

Charging Orders

Sparkasse Koln Bonn v Cutts [2018] EWHC 1879

August 2018 Update

- S obtains charging order against Mr C's property and issues Part 8 Claim for order for sale
- Mrs C issues separate TOLATA claim
- Mr & Mrs C 'produce' a declaration of trust

Caselaw Update

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Charging Orders

Sparkasse Koln Bonn v Cutts [2018] EWHC 1879

August 2018 Update

- Although there is nothing in CPR 8 or CPR 73.10C that permits Points of Claim and Defence etc, the court has wide case management powers in CPR 3.1(2)(m) to take any other step or make any other order for the purpose of managing the case and furthering the overriding objective
- It was preferable to do this, than direct the claims to proceed as Part 7 Claims (which the court said can be cumbersome and likely to be more costly than adopting a hybrid approach)
- [Mrs C's claim dismissed; order for sale]

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Securitisation

Herron v Bank of Scotland Plc [2018] NICA 11

March 2018 Update

Background

- Courts in Northern Ireland have had to deal with a lot of securitisation issues
- Fundamentally, they revolve around two things (1) whether a lender retains title to sue for possession and a money judgment following securitisation (2) whether a lender can still sue if it has suffered no loss (as a result of the securitisation)
- The courts in NI have developed a practice of requiring the lender to prove title to sue and provide disclosure of relevant documents

  Swift First Ltd v McCourt [2012] NICh 33

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Securitisation

Herron v Bank of Scotland Plc [2018] NICA 11

March 2018 Update

- Explains what securitisation is
- Heads off the 'no loss argument'
- Describes the main hallmarks of the appeal as 'bare assertion, mere suspicion and rank speculation'
- In practice, all that a lender needs to demonstrate is that it retains a registered title to the security: *Paragon Finance Plc v Pender* [2005] EWCA Civ 760 (para 109 etc)

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Solicitors

O'Neill v Bull & Bull (Unrep Canterbury Cty Ct 5 Feb 2018)

Professional negligence – mortgage conditions – duty to advise

Stoffel & Co v Grondona [2018] EWCA Civ 2031

Professional negligence - mortgage fraud – illegality

Caselaw Update

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Solicitors

O'Neill v Bull & Bull (Unrep Canterbury Cty Ct 5 Feb 2018)

February 2018 Update

- Cs retain solicitors on the purchase of residential property subject to mortgage
- Mortgage valuation report identifies subsidence and mortgage offer is subject to a condition requiring a structural engineer's report
- Sols send the mortgage offer to Cs and ask them to confirm it is satisfactory and that they understood its terms - yes

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Solicitors

O'Neill v Bull & Bull (Unrep Canterbury Cty Ct 5 Feb 2018)

February 2018 Update

- Cs exchange contracts but there were problems and delays after it came to light they had not read the mortgage offer and were unaware of the requirement for a structural engineer's report
- Completion takes place, but Cs then complain about subsidence and claim a diminution in value

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Solicitors

O'Neill v Bull & Bull (Unrep Canterbury Cty Ct 5 Feb 2018)

February 2018 Update

- Held: Sols in breach of duty. The terms of the mortgage offer requiring an engineer's report was sufficiently unusual and should have been addressed (Sols couldn't find a file note telling the clients to obtain a report)
- On balance, Cs would have proceeded in any event so the breach of duty was not causative of any loss

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Solicitors

Stoffel & Co v Grondona [2018] EWCA Civ 2031

September 2018 Update

- G participates in a mortgage fraud with M, to acquire properties and mortgage finance on behalf of M
- G instructs S & Co solicitors to act on the purchase of property at £90,000 subject to a new mortgage with BM for £76,500 (requiring registration of TR1, DS1 and new mortgage)
- In breach of retainer, S & Co fail to deal with registration

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Solicitors

Stoffel & Co v Grondona [2018] EWCA Civ 2031

September 2018 Update

- G defaults on new mortgage. BM sues for a money judgment. G brings a Part 20 Claim against S & Co for damages
- On trial of G's Part 20 Claim, judge awards damages of £78,000 based on the value of the property at the time of the transaction + interest
- S & Co appeal on the basis that G is precluded from recovering by reason of illegality
- G cross-appeals on the basis that damages should be calculated by reference to her contractual indebtedness to BM

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Solicitors

Stoffel & Co v Grondona [2018] EWCA Civ 2031

September 2018 Update

Held:

(1) The correct test of illegality is now *Patel v Mirza* [2016] UKSC42 (per Lord Toulson at para 101)

(2) The fact that the mortgage application was fraudulent does not mean the transaction was a sham. It was intended to take effect as between all the parties

(3) There is no public interest in allowing negligent conveyancing solicitors to avoid their professional obligations

(4) The judge was correct to measure quantum as the value of the property and not G's mortgage liabilities

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Consent Orders

Heaney v McEvoy [2018] NICA 4

Tomlin Order for possession – grounds to set aside

Fortwell Finance Ltd v Halstead [2018] EWCA Civ 676

Consent Order – mortgage lending – regulated activities

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Consent Orders

Heaney v McEvoy [2018] NICA 4

February 2018 Update

- Not a mortgage case – claim for reasonable financial provision under the Inheritance (Provision for Family and Dependants) Order 1979
- Dec'd died, leaving a property, occupied by some of her children. Executors claimed possession. Children claimed reasonable financial provision
- At trial, represented by Csl and Sols they compromised the proceedings with a Tomlin Order (withdrawing the Inheritance claim and fixing a date for possession)
- They then changed their minds and, acting as litigants in person, alleged fraud, bribery and conspiracy by their legal team etc

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Consent Orders

Heaney v McEvoy [2018] NICA 4

February 2018 Update

- At the hearing, the judge dismissed all of the allegations. The court was satisfied they knew what they were doing. They simply had second thoughts, but the reason for this was immaterial
- Children appealed on the same grounds (and complaining about the conduct of the judge)
- Appeal dismissed.
- Having second thoughts, or blamining your legal team is not enough

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Consent Orders

Heaney v McEvoy [2018] NICA 4

February 2018 Update

- Having second thoughts, or blaming your legal team is not enough
- You can always sue them if you have been badly advised
- In order to set aside a Tomlin Order (a contract) you need vitiating circumstances
- Special care needs to be taken in alleging and proving fraud (see the requirements in CPR PD 16 para 8.2(1))

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Consent Orders

Fortwell Finance Ltd v Halstead [2018] EWCA Civ 676

March 2018 Update

- In 2013 F granted H a 12-month loan of £2.36M secured by a legal charge
- F was not an 'authorised person' and regarded this as an unregulated loan for the purposes of FSMA 2000 (Regulated Activities) Order 2001 (condition of loan was that borrower was not to occupy property as a dwelling)
- Following default in repayment, F issued proceedings for possession which were compromised by a consent order for possession in 28 days
- Following further default, F obtained a warrant. H applied to set aside the consent order

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Consent Orders

Fortwell Finance Ltd v Halstead [2018] EWCA Civ 676

March 2018 Update

On appeal to the High Court, H initially took the point that the loan agreement was unenforceable as having been made by an unauthorised person in contravention of the general prohibition in s 19 FSMA 2000 on the basis that it involved entering into a regulated mortgage contract (Art 61 RAO).

Held: since the property comprised 3 flats, only one of which was occupied by H, it did not exceed the 40% requirement (the special condition also operated as an estoppel)

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Consent Orders

Fortwell Finance Ltd v Halstead [2018] EWCA Civ 676

March 2018 Update

On appeal to the Court of Appeal, H took another point, that the consent order itself infringed the general prohibition because it involved the separate activity of 'administering' a mortgage contract (taking any necessary steps for the purposes of collecting or recovering payments due under the contract from the borrower)

Held: Compromising proceedings did not involve 'taking any necessary steps' since it is never necessary to compromise proceedings. In any event, taking legal proceedings is expressly excluded from Art 61(3)(b)(ii) by the words "a person is not to be treated as administering a regulated mortgage contract merely because he …exercises a right to take action for the purposes of enforcing the contract…"

Appeal dismissed

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Litigants in person

Ulster Bank v Esmaili [2017] NICA 63

Mortgage possession proceedings – finality of findings of fact at first instance

Scott v The Mortgage Business [2018] EWHC 668 (Ch)

Approach to be adopted on application for relief from sanction by a litigant in person

Caselaw Update

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Litigants in person

Ulster Bank v Esmaili [2017] NICA 63

November 2017 Update

- E obtained loan facilities from a bank to develop commercial premises secured by various charges
- Following default in repayment, the bank commenced proceedings for possession
- E defended the claim on the basis that the bank had agreed to provide further development finance, relying on breach of contract, misrepresentation, estoppel and also unfair relationship (s 140A CCA 1974)

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Litigants in person

Ulster Bank v Esmaili [2017] NICA 63

November 2017 Update

- At trial, the court accepted that the bank could be bound by an oral representation, but on the evidence made various detailed findings against E who was bound by the facility letters
- E appealed, relying on 16 grounds of appeal

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Litigants in person

Ulster Bank v Esmaili [2017] NICA 63

November 2017 Update

Held:

- E was attempting to retry the case
- He failed to recognise that a first instance trial is the “main event” factually rather than a “try out on the road”
- The matter had gone on too long, and it was time for E to face up to his responsibilities and obligations
- Appeal dismissed

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Litigants in person

Scott v The Mortgage Business [2018] EWHC 668 (Ch)

April 2018 Update

- Following default in repayment, TMB exercised its power of sale and sold a property for £255,000
- S a litigant in person claimed that TMB sold at an undervalue
- Single joint valuation evidence valued the property at £255,000 so the judge struck out the claim
- S applied for permission to appeal but breached various orders – failed to file grounds of appeal, an appeal bundle or a transcript
- The court treated his further application as one for relief from sanction in accordance with CPR 3.9 and Denton v White

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Litigants in person

Scott v The Mortgage Business [2018] EWHC 668 (Ch)

April 2018 Update

3-stage approach to applications for relief from sanction:

(1) Identify and assess the seriousness and significance of the failure to comply

(2) Consider why the default occurred

(3) Evaluate all the circumstances of the case to enable the court to deal justly with the application, including 3.9(1)(a) and (b)

Caselaw Update

Litigants in person

Scott v The Mortgage Business [2018] EWHC 668 (Ch)

April 2018 Update

Held:

1. The fact that a party is unrepresented is of no significance to the first stage of the *Denton* test.

2. The mere fact that a party is a litigant in person does not provide a good explanation for not adhering to the rules. A good explanation is different from an explanation. The fact that a party is not clear as to what is required is not a good explanation.

3. A serious non-compliance with the rules without a good explanation normally points to a refusal to grant relief.

Application refused

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Financial Ombudsman Service

October 2018 Update

On 18th October 2018 the FCA published a Consultation Paper CP 18/31 proposing an increase in the FOS's award limit from £150,000 to £350,000 from 1st April 2019

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Financial Ombudsman Service

October 2018 Update

Some things to bear in mind:

- The Ombudsman Scheme is set out in Part XVI FSMA 2000
- Under s 228 a complaint is to be determined by reference to what is in the opinion of the ombudsman 'fair and reasonable in all the circumstances of the case'
- When the ombudsman has determined a complaint, and it is accepted by the complainant, it is final and binding (s 228(5) FSMA 2000) and gives rise to a *res judicata* which precludes a complainant from bringing separate legal proceedings on the same facts (*Clark v In Focus Asset Management* [2014] 1 WLR 2502
- A determination can include either a money award which, if registered, can be enforced in the civil courts, or some other direction, which can be enforced by injunction (s 229; Sched 17, para 16)

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Financial Ombudsman Service

October 2018 Update

Some things to bear in mind:

- Complaints normally have to be lodged within 6 years of the event giving rise to the complaint or 6 months from a 'final response' from the institution concerned
- The proposed new award limit will apply to acts or omissions after 1st April 2019 and will automatically adjust in line with inflation. For acts or omissions prior to 1st April 2019, the limit will increase to £160,000

Practice and Procedure Checklists

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Mortgage Possession Claims

- CPR 55 Checklist

Charging Orders

- CPR 73 Checklist

Mortgage Update Seminar 2018

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Practice and Procedure Checklists

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Mortgage Possession claims
Practice and Procedure Checklist CPR 55 and CPR PD 55A

Beginning the claim	**Rules**	**Forms**
May start claim in any County Court Hearing Centre (unless High Court exception applies in which case file certificate stating reasons)	55.3(1)(a)(b) 55.3(2) PD para 1	
If not issued at Hearing Centre which serves the address where the land is situated, claim will be sent to correct Hearing Centre	55.3(1)(c)	
Claim Form	55.3(5) PD para 1.5	N5
Particulars of Claim	55.4 PD para 2.1 and 2.5	N120
Form of Defence to be sent with Claim Form plus Guidance Notes	55.3(5)	N11M N7
Court issues Notice of Issue		N260B
No Acknowledgement of Service required	55.7(1)	
Judgment in default under CPR 12 not available	55.7(4)	
If D does not file Defence, may still take part in hearing	55.7(3)	
Possession Claims Online	PD 55B	

Pre-hearing timetable		
Court fixes date when it issues Claim Form or when [correct] County Court Hearing Centre receives the claim	55.5(1) 55.5(1A)	
Hearing date will be not less than 28 days from the date of issue – standard period is not more than 8 weeks	55.5(3)(a),(b)	
D must be served with Claim Form and Particulars of Claim not less than 21 days before hearing date	55.5(3)(c)	
Court may extend or abridge time	3.1(2)(a)	
Within 5 days of receiving notification of the hearing date from the court, C must send notice to the property addressed to "the tenant or occupier", the housing department of the local authority within which the property is located and any registered chargee	55.10(2)	
Contents of notice	55.10(3)(3A)	

Evidence All witness statements must be filed and served at least 2 days before the hearing This does not prevent C from adducing up to date account information either orally or in writing at the hearing C should normally produce: • Account information/evidence of conduct of account • Charge Certificate/Title Info Document with Mortgage/Conditions • Office copies • Clear Matrimonial Homes rights search – official certificate of search under LRR 2003, r 159(2); Sch 6, pt 5 • Any other relevant information (eg payment of social security benefits) Account information should include: • Amount of advance, current monthly instalment, balance • In cases of arrears of monthly instalments - in schedule form – dates and amounts of payments due/paid – for 2 years pre-issue (unless reliance placed on longer period)	55.8(4) PD para 5.2 PD para 2.5(6) PD para 2.5(2) PD para 2.5(3) PD para 2.5A	

Hearing		
C must bring 2 completed copies of Form N123 (Protocol Checklist)	PD para 5.5	N123
Where C serves Claim Form/Particulars of Claim it must produce at the hearing a Certificate of Service	55.8(6)	N215
C must also produce: • Copy of notices to tenant/occupiers, local authority and other registered chargees • Proof of service	55.10(4)	
At the hearing the court may decide the claim or give case management directions	55.8(1)	
Where the claim is genuinely disputed on grounds which appear to be substantial, case management directions will be given including allocation to track	55.8(2)	
Court will have regard to a number of factors in deciding how to allocate to track including the amount of any arrears of mortgage instalments, and D's conduct	55.9(1)	
If the maker of a witness statement does not attend a hearing and the other party disputes material evidence contained in his statement, the court will normally adjourn the hearing so that oral evidence can be given	PD para 5.4	
Summary judgment is not available against a defendant in a residential mortgage possession claim	24.3(2)(a)(i)	
If the court determines the claim, it will usually either make: • An order for possession absolute • A suspended order for possession		N26 N31

Execution		
Enforcement of an order for possession is by way of a warrant of possession	CPR 83.26	
Application is usually made to the County Court Hearing Centre which made the order, although it can be transferred	83.26(2)(3)	
The person applying for a warrant of possession must file a certificate that the land which is subject of the judgment or order has not been vacated	83.26(4)	
A person applying for a warrant of possession must file a request for warrant certifying: (1) that the land which is subject to the judgment or order has not been vacated; and (2) that notice has been given in accordance with the Dwelling Houses (Execution of Possession Orders by Mortgagees) Regulations 2010	83.26(5)	N325
If an order for possession has been suspended on terms as to payment of a sum of money by instalments the judgment creditor shall in his request certify (a) the amount of money remaining due under the judgment or order and (b) that the whole or part of any instalment due remains unpaid	83.26(7)	
A warrant of execution shall be valid in the first instance for 12 months but can be extended for a period of 12 months at any one time	83.3(3)(4)	
A warrant of execution shall not issue without the permission of the court after certain events, including where six years or more have elapsed since the date of the judgment or order	83.2(3)(4)	
If the mortgagor re-enters the property, the mortgagee should apply for permission to issue a warrant of restitution. The application may be made without notice but must be supported by evidence	83.26(8) 83.26(9)	

Unauthorised tenants		
An unauthorised tenant should be alerted to the risk of repossession in two ways:		
(1) Upon receipt of a notice to 'the tenant or the occupier' which the lender is required to send to the mortgaged property within 5 days of being notified of the first hearing date by the court	55.10(2)(a)	
(2) Upon receipt of a prescribed form of notice of execution which the lender is also required to deliver to the mortgaged property at least 14 days before applying to court for a warrant of possession.	s2 MR(PT)A 2010 and reg 3 DH (EPOM) Regs 2010	Reg 4 and Sched
Upon receipt of either of these notices, the tenant may apply to court to suspend possession/postpone execution	s 1(4) 55.10(4A)	N244

Appeals For the destinations of appeals see CPR PD 52A		
An appeal against any decision of a DJ goes to a CJ An appeal against any decision of a CJ goes to a HCJ	PD 52A Table 1	
All appeals need permission.	52.3(1)	
An application for permission to appeal can be made to the lower court or the appeal court (in the Appellant's Notice)	52.3(2)	N161
If the lower court refuses permission an application can be made to the appeal court	52.3(3)	
An application for permission to appeal to the appeal court (a first appeal) is made in writing, although it can be renewed orally.	52.4	
The test for granting permission to appeal on a first appeal is that: (a) real prospect of success, or (b) some other compelling reason for the appeal to be heard	52.6(1)	
Permission is required from the Court of Appeal for a second appeal.	52.7(1)	
The test for granting permission to appeal on a second appeal is that: (a) real prospect of success and raises an important point or principle or practice, or (b) some other compelling reason for the Court of Appeal to hear it	52.7(2)	
Ordinarily an appeal is limited to a review of the decision of the lower court unless the court considers that in the circumstances it would be in the interests of justice to hold a rehearing	52.21(1)	
The appeal court will allow an appeal where the decision of the lower court was: (a) wrong; or (b) unjust because of a serious procedural or other irregularity in the proceedings of the lower court	52.21(3)	

Charging Orders
Practice and Procedure Checklist CPR 73

Obtaining a charging order	**Rules**	**Forms**
An application for a charging order may be made without notice	73.3(1)	
An application to the County Court in respect of land should be made to the County Court Money Claims Centre but can be transferred to the debtor's home court	73.3(2) PD73 para 3	
A judgment creditor may apply for a single charging order in respect of more than one judgment or order against the same creditor	73.3(4)	
The application notice must be in the form and contain the information required by CPR PD 73 and be verified by a statement of truth	73.3(5) PD73 para 1.2	N379
Initial consideration		
An application for a charging order will initially be dealt with by a [court officer] without a hearing	73.4(2)(3)	
The [court officer] may make an interim charging order and fix a hearing to consider whether to make a final charging order	73.4(5)(6)	
A party may request that a decision of a court officer be reviewed by a District Judge (within 14 days of service).	73.5(1)(2)	
A review will take place without a hearing	73.5(3)	
Copies of the interim charging order, the application notice and any documents filed in support must be served within 21 days of the making of the interim order	73.7(1)	
There is a list of persons to be served	73.7(7)	
An interim charging order is registrable: <u>On registered land</u> Where the judgment debtor is the sole owner (ie. the charge is secured on the legal and beneficial interest), by a notice or restriction Where the judgment debtor is a beneficial co-owner (ie. the charge is secured on a beneficial interest) by a Form K restriction <u>On unregistered land</u> Registration as a writ or order affecting land does not include an undivided share, so that it is not possible to protect by registration a charge over a beneficial interest		See HM Land Registry Practice Guide 76

Further consideration		
There are different rules for further consideration depending on whether the interim charging order was made at the County Court Money Claims Centre or has been transferred out	73.10,10A	
Generally, if any person objects to the court making a final charging order, he must file and serve on the judgment creditor written evidence stating the grounds of his objections	73.10(2) 73.10A(2)	
At the hearing the court may: (a) make a final charging order with or without modification, (b) discharge the interim charging order and dismiss the application, (c) decide any issues between the parties, (d) direct a trial of any such issues, or (e) make such other order as the court considers appropriate	73.10(7) 73.10A(3)	
An order made at the hearing must be served on all persons on whom the interim charging order was required to be served	73.10(9) 73.10A(5)	
Discharge or variation of order		
Where the final charging order was made without a hearing any application to discharge or vary a charging order (under s 3(5) Charging Orders Act 1979) must be made to the County Court Money Claims Centre (but will be transferred for hearing to the judgment debtor's home court)	73.10B(1) 73.10B(2)	
The court may direct that any interested party be joined in	73.10B(4)	
An order discharging or varying a charging order must be served on all the persons on whom a charging order was required to be served	73.10B(5)	

Enforcing charging order by sale		
The court may, upon 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	73.10C(1)	
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	73.10C(2) and PD 73	
The limit of the County Court's equity jurisdiction under s 23(c) County Courts Act 1984 is £350,000. Above this limit a claim must be started in the High Court, Chancery Division	PD 73 paras 4.1-4.3	
The claimant must use the Part 8 procedure	73.10C(4)	
A copy of the charging order must be filed with the claim form	73.10C(5)	
The claimant's written evidence must include the information required by PD 73	PD 73 para 4.3	
Sample forms of order (not prescribed – may be adapted)		PD 73 para 4.4 App A (sole owner) App B (joint owners)