



Sir Peter Smith

Call: 1975 - QC: 1992

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Judicial Career

After sitting as a Deputy in the Chancery Division since 1996, Peter was appointed a High Court Judge on 15th April 2002.

Since then he has sat exclusively in London until he retired in October 2017.

Peter sat as a Judge in the High Court Chancery Division for over 20 years and was the senior Judge after the Chancellor when he retired. He was the most experienced trial Judge in the Chancery Division and has presided over numerous trials of varying lengths covering largely financial, commercial and insolvency matters. In the last 6 years he has delivered a total of 132 judgements.

Peter has a reputation of being robust but fair and able to dispose of matters quickly with a pragmatic approach to them. He requires advocates to be able to argue their case and this disappoints some but those who are fully prepared and know their case relish the debate that takes place in front of him.

Cases Decided on the Bench

- 1 **Da Vinci Code** – This concerned Dan Brown’s book and an alleged infringement of the copyright in the book Holy Blood Holy Grail. It attracted a large amount of publicity and required a lot of case management.
- 2 **Attorney General of Zambia V Meer Care & Desai** – This was a very large fraud case which lasted 6 months. It involved allegations that the former President of Zambia (Dr Chiluba) aided and abetted by the head of his Secret Service and various businessmen in Zambia had defrauded large amounts of money from the Zambian Government. The trial lasted 6 months and required a lot of case management because the Defendants (understandably) put up every obstacle they could to hearing the case on the merits. Part of the practical resolution of such objections involved Peter sitting in Zambia for a month to hear evidence from witnesses in Zambia who objected to coming to England or were unable so to do. Further he made an order ring-fencing the proceedings to deal with the President’s plea that he should not be required to incriminate himself. This is the first judgement in Africa against a former President for corruption.

Location

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- 3 **Philips v Symes** – This was a whole series of cases spread over a number of years involving a dispute in what was then the largest partnership dealing in the sale of antiquities. It involved numerous applications around the world and numerous hearings before him including bankruptcy proceedings and committal proceedings.
- 4 **Brazzil v Willoughby** – This involved a construction of the terms of investment by HM Treasury in Kaupthing to save it from insolvency in the 2008 collapse.
- 5 **BBC v Woolworths** – This was a dispute as to the construction of an agreement for licensing BBC products in favour of Woolworths arising out of the insolvency of Woolworths.
- 6 **Quinn Direct Insurance v The Law Society** – This was a construction of the Solicitors’ Indemnity Policy arising out of the potential insolvency of the insurers.
- 7 **ITS v GP Noble & Sons** – This was a substantial case of stealing from pension funds by the trustees and an Australian businessman and removing all the assets abroad.
- 8 **Singapore Airlines v Buck Consultants** – This involved a construction of the Singapore Airlines’ pension fund.
- 9 **Farepak** – This involved disqualification proceedings against the former directors of Farepak. Ultimately the Secretary of State felt unable to continue with his case after he had closed his evidence.
- 10 **Formula 1** – This involved an argument over the copyright and trade marks of the word Lotus and the well known Lotus logo which involved examining the history of Lotus back to the time of Colin Chapman and unscrambling the various matters which had ensued following his death.
- 11 **Hick v RBS** – This was an argument between RBS who had lent money to Hicks to acquire shares in Liverpool Football Club.
- 12 **Hemsley v Graham** – This was a very long trial involving a Ponzi scheme where the investors were defrauded as to the nature of the business carried on by the Defendant company (essentially a fraudulent operation).
- 13 **AETN v Discovery Communications Europe Ltd** – This was a claim for infringement of the trade mark History by the History Channel.
- 14 **Hunt v Hoskyns** – This was a claim for a transaction at an undervalue by one insolvency practitioner against another.
- 15 **Sharab v HRH Al Saud** – This was a claim for commission brought by Mrs Sharab against Prince Al Waleed for procuring the sale of an Airbus jet to Colonel Gadaffi.
- 16 **Group 7 v Sultana** – This was another Ponzi investment fraud perpetrated in Malta where it was alleged that one hundred million euro investment could be doubled every 2 weeks.
- 17 **Greenwich Inc v Dowling** – This concerned the failure of an insolvency practitioner’s lawyers to provide proper evidence on an ex parte application for a freezing order.
- 18 **Rosserlane v Credit Suisse** – This was a claim against Credit Suisse for 1.2 billion Euros when it was alleged that it had sold an oil field in Azerbaijan at a great undervalue.
- 19 **Emerald Supplies v BA** – This is a Competition Act fraud perpetrated by BA and other airlines when ferrying cargo. There are over 300 Claimants and the claim runs to several billion.

Career (Pre-Bar)

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After call in 1975 Peter did a pupillage with ELG Tyler (author of Fisher & Lightwood Mortgages) for 6 months and a further 6 months with Professor Joseph Turner.

In 1976 he joined the panel outside Counsel for HM Land Registry doing that until 1985 (part time). During that time he examined in excess of 10,000 titles in the NW gaining a detailed knowledge of the practice of conveyancing and titles in the NW especially re rent charges long leases and the practice of Land Registration.

In 1977 Peter became a full time Lecturer at Manchester University lecturing in Land, Conveyancing, Equity and Succession becoming part time in 1981 and leaving in 1983.

Career at Bar

In 1979 Peter joined 460 Royal Exchange Manchester. This Chambers was founded by CN Glidewell the father of Glidewell LJ. This Chambers was a Common Law set with a number of people doing Planning work. It has strong connections with the University; a significant number of members including the Head (Philip Raynor QC) are former Lecturers. Peter was joint head of Chambers 2001-2002. There have been 6 judicial appointments in respect of Chambers. It has now expanded and has now over 100 members (Kings Chambers Manchester).

When Peter joined it had no Chancery/Commercial work. Peter developed a Chancery Commercial Practice with an emphasis on litigation starting initially with 2 large Commercial Fraud cases (one being **BCCI v Aboudy 1989 2 WLR 759** where he did all the junior work but declined the trial because it was fixed for 6 months in London).

Thereafter his practice developed rapidly in Chancery and Commercial work of a litigious nature. In addition because of his academic background he built up a large practice in Conveyancing (especially Prof Neg for the SIF) and L & T. Peter counted among his clients P & O Properties, MEPC, Barratts. He advised the developers and Manchester CC in respect of the new Concert Hall Bridgewater Hall and Manchester United over the title aspects in respect of the acquisitions of the land for their new stand (£28 m cost).

Peter has represented a significant number of Institutional Landlords in rent review arbitrations in Manchester where he accepts DPA instructions from Surveyors. He has advised MEPC over the L & T aspects of 4 of their Shopping Centres in the North (Hyde, Bury, Urmston and St Helens).

In addition Peter has done extensive insolvency work representing the DTI in Disqualification Cases; he was involved in the liquidation of AF Budge Contractors.

Commercial work in the North was boosted by the appointment of Scott J as Vice Chancellor in 1987 (and the continued High Court appointments thereafter). It was further boosted with the creation of the local Mercantile Court with the appointment of HH Judge Kershaw QC.

Peter took Silk in 1992 after 13 years at the Bar in Manchester at the age of 39 and was appointed to the High Court at the age of 49.

Notable Cases

1. **Parkinson v Meyer Wolf** 1985 (unrep) sec for costs see Ord 23 1-3
2. **R Walker v BRB** 1984 2 All ER 249 (Fencing Duties of BRB)
3. **Woolworth v Charlwood Alliance** 1987 1 EGLR 129 (keep open covs in leases)
4. **Van Gestel v Cann** 1987 Lexis (CA) Directors Duties of disclosure of own misconduct
5. **Edmunds v Stockport MBC** 1990 PLR 1 (overriding covs under S. 237 TCPA 1990; first case on ambit of the section)
6. **Phipps Faire v Malbern Construction** 1987 1 EGLR 129 (Rent Review)
7. **Hill Samuel v Preston BC** 1990 36 EG 111 (Rent Review)

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8. **Bell v Browne** 1990 3 WLR 510 (CA) (Limitation in Prof Neg Claims)
9. **AG v Barratt Manchester** 1991 63 P & CR 179 (CA) Covenants and Charitable Trusts)
10. **Barlow Clowes** 1988 (unrep) Mareva injunctions re proprietary claims)
11. **Norglen v Reeds Rains** 1997 3 WLR 1177 HL (Assignment of causes of action by liquidators)
12. **Esso v Fumegrange** 1994 2 EGLR (CA) (Lease/Licence of Filling Station)
13. **CIS v Argyle Stores** 1997 2 WLR 898 HL (SP of Keep Open covs in leases)
14. **Mond v Hammond Suddards** 1996 2 BCLC 470 (effect of s 127 IA 1986 on recoveries whether receivable under debenture or payable to liquidator)
15. **Re AF Budge** CA 29-07-95 (principles of setting aside statutory demand)
16. **AS Screenprint v British Insurance Reserve** (CA) 12-12-95 Construction of Insurance Policy (whether consequential loss covered)
17. **Re Exchange Travel** 1996 2 BCLC 524 (preference in winding up)
18. **Bass Brewers v Appleby** 1996 PNLR 385 CA (liability of partners for fraud by one partner)
19. **Kelly v Corston** 1997 4 All ER 466 CA (Barristers immunity)
20. **Barratt Manchester v AG** 1998 1 All ER 1 CA (striking out inquiry on undertaking for damages for want of prosecution)
21. **Re Boswell Steels** 1988 5 BCC 145 (Challenge to decision of auditor in 459 ptn)
22. **Bass Brewers v Delaney & Sons** 1994 BCC 851 (competing receivers appointed)

Publications

Barnsley Conveyancing Law & Practice (2ed 1982)

Distribution on Intestacy (Oyez & Longman 1977-87)

Various Articles and Case Notes in The Conveyancer and Sol Jol 1977-1983:

Caveat Settled Land 1977 Conv

Statutory Tenants and Mortgages 1977 Conv (referred to in *Britannia BS v Earl* 1990 1 WLR 422 CA)

The Chains of Trusteeship 1978 Conv

Easements and Centre Point 1978 Conv

Co Owners and Agency 1982 Conv

Williams and Glyns Bank v Boland 1981 Sol Jol

Appointments

1995 – Assistant Recorder

1995 – Deputy Deemster IIOM (sat in IOM CA on trust case of importance as to the status of the Protector in offshore trusts)

1996 – Deputy High Court Judge

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1997 – Recorder

2002 – High Court Judge (first ever appointment to the Chancery Division of someone practising mostly outside London)

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