



## Zia Bhaloo QC

Call: 1990    Silk: 2010

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## Expertise

Property, Leasehold Enfranchisement, International, Arbitration, Mediation

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## Overview

Zia Bhaloo was called to the Bar in 1990 and was appointed Queen's Counsel in 2010. She was elected chairman of the Property Bar Association in 2014. Zia was *Chambers & Partners* Real Estate Silk of the Year 2016.

At the outset of her practice Zia had a wide chancery commercial practice, including insolvency, property, company, professional negligence, trusts and commercial disputes. Prior to taking silk her practice focussed largely on property. As well as maintaining her property expertise, she is increasingly instructed on commercial, commercial chancery matters and international arbitrations, as well as areas outside her core areas, often with a specialist junior. She is well-known for property

and landlord and tenant, and she has a wide range of experience in these areas including: property insolvency, valuation issues, dilapidations, business tenancies, rent review, telecoms, all issues arising out of development, easements, restrictive covenants, rights of light, the interpretation of sale, finance, development and overage agreements, mines and minerals, service charges and social housing. She often acts in cases which also include significant planning issues.

She is recommended for her cross examination and has been recommended in both Chambers & Partners and the Legal 500 for many years for commercial chancery, property litigation, and social housing. The research by those directories over many years emphasises the fact that she is a “commercially astute tactician”. Her focus and interest is on using the law, and strategy, to achieve results which achieve the client’s objectives, and which work on the ground.

Zia has been representing clients in mediations for over 20 years and is an ADR Group accredited mediator. She has recently successfully mediated a number of large and multi-party disputes.

Zia is the co-editor of Butterworths Property Insolvency and the Rural Law Notebook.

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## Qualifications

- LLB (Lond)
  - LLM (Lond)
  - Called to the Bar in 1990
  - Queen’s Counsel 2010
  - Elected Bencher of Middle Temple 2014
  - Elected chairman of the Property Bar Association 2014
  - Swahili and Cutchi speaker
  - Member of the Chancery Bar Association
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## Recommendations

*“Incredibly solicitor-friendly” and “a superb advocate, especially when it comes to commercial property matters.”* (Chambers & Partners 2018)

*“Incredibly thorough, she picks up on points everyone else has missed and gets results.” “Extremely knowledgeable and very effective at putting clients at ease and at explaining complex matters in understandable terms.”* (Chambers & Partners 2018)

*“She has outstanding technical knowledge and intellect, and goes straight to the heart of a problem.”*(Legal 500 2017)

*“Very strategic. She doesn’t just give you the law, she explains the practical effects of what you can and cannot do within that law”* (Chambers & Partners 2017)

*“She is clever, tough, and really uncompromising in the way she deals with her work”* (Chambers & Partners 2017)

*“She’s very cool, calm and collected and she is so smooth she makes it look effortless. Amazing to watch, she’s very persuasive in the court room and has gravitas”* (Chambers & Partners 2017)

*“For a QC, she is incredibly user-friendly. She doesn’t rely on juniors too much – she gets stuck in herself”*(Chambers & Partners 2017)

*“Zia Bhaloo QC is recognised as a Leading Silk in Property Litigation”* (Legal 500, 2016)

*“An excellent advocate and team player”* (Legal 500, 2016)

*“An experienced and much heralded litigator who is noted for her expertise on property issues...She is also adroit at handling a range of other claims, including those concerning breach of trust and fraud” “Clearly a class act”* (Chambers & Partners 2016)

*“Her advocacy and paperwork are just splendid” “An intellectual heavyweight who understands business. She is a great team player and good at leading from the front”* (Chambers & Partners 2016)

*“She has exceptional attention to detail and produces litigation strategies which always pay off”* (Chambers & Partners 2016)

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## Cases

Acting for the successful respondent in *Main & Ors v Giambrone & Law* [2017] EWCA Civ 1193. The case concerned the sale of holiday property in Calabria to people who lived in the UK and Ireland. The purchasers sued Giambrone for breaches of multiple duties. In particular they claimed that Giambrone held their deposits on trust and should not have paid them out in the circumstances. The Court of Appeal upheld the findings of breach of trust, and other breaches of duty. The Court applied *Target v Redfern* and *AIB Group v Redler* in relation to the measure of compensation for breach of trust where the breach also sounded in contract and tort. This was also the first opportunity for the Court of Appeal to consider and apply the analysis of SAAMCO in *Hughes Holland v BPE Solicitors*. In addition the Court considered rule 22 of the Solicitors' Account Rules 1998, and breaches of duty concerning inadequate planning permission and failing to warn the claimants that Calabria was a "notoriously crime-ridden area". The Supreme Court has refused permission to appeal.

Acting for the successful claimant in *Aspers UK Holdings Limited v MOFIV* [2017] EWHC 1855 (Ch). The issue concerned the interpretation of provisions contained in the lease and in a deed of substitution in relation to liabilities in excess of £15million. The tenant had ceased trading and Aspers successfully contended that a release of the original guarantor triggered by that event applied to it on a true construction of the deed of substitution.

Acting in an international arbitration concerning claims for breach of warranty and fraud in relation to a share purchase agreement.

Acting for Associated British Ports ("ABP") in *ABP v Tata Steel UK Limited* [2017] EWHC 694 (Ch). The proceedings concerned a 25 year licence between ABP and Tata for use of the jetty at Port Talbot. The licence provided for the renegotiation of the licence terms in the event of a major physical or financial change in circumstances affecting operations at the port or steelworks. The licence provided for the matter to be referred to an arbitrator if no agreement was reached. Tata gave notice of a major change in financial circumstances said to be, inter alia, changes in the price of steel and currency fluctuations. The issue for the Chancery Division was whether the clause was too uncertain to be enforced. Rose J held that the inclusion of the arbitration clause indicated that the parties had not intended to retain the freedom to agree or disagree and the arbitration clause was a binding agreement to refer the dispute to arbitration.

Acting for Selfridges in relation to defects in its Birmingham store.

Acting for the Wentworth Club in a claim by the Wentworth Estate Residents Committee that certain covenants prevented the Club from holding the PGA Golf Tournament in 2017.

Acting for the successful landlord in *Riverside Park Ltd v NHS Property Services* [2016] EWHC 1313. The case concerned whether a break clause conditional on giving vacant possession had been exercised effectively. The court found that demountable partitions were chattels rather than fixtures, that vacant possession had therefore had not been given and that the break had not been exercised.

Acting for the First Respondent in the Supreme Court in *Lynn Shellfish Ltd v Loose* [2016] UKSC 14, which concerned the extent of an exclusive prescriptive right to take shellfish from a stretch of shore on the eastern side of the Wash.

Acting for an international telecoms service provider in arbitrations seeking the repayment of sums paid in connection with contracts for the installation of sub ducts and fibre optic cables which it is claimed were not in fact installed. This involves complex factual issues, restitution and an issue as to whether one of the projects is subject to the arbitration clause in an umbrella agreement.

Acting in a successful appeal against an arbitration award in a rent review.

Successfully resisting an appeal against an arbitration award in respect of the correct interpretation of a contract.

Acting in a multi-million pound arbitration concerning the interpretation of a development finance agreement.

Appearing in the Court of Appeal (Criminal Division) in relation to a discharge of restraint order obtained under the Proceeds of Crime Act and involving a Jersey trust.

Acting for the successful landlord in a claim by a tenant for damages for nuisance and breach of covenant. One of the main issues was the circumstances in which obligations should be implied in relation to property retained by a landlord (*Gavin v One Housing Group* [2013] EWCA 580).

Acting for the successful landlord in a claim for collective enfranchisement of units let on short terms lets. The main legal issue was the correct interpretation of certain provisions in the legislation (*Smith v Jafton* [2013] 2 E.G.L.R 204).

Acting for JC Decaux and Outdoor Plus at first instance and in the Court of Appeal in a claim for release fee damages arising out trespassing advertising hoardings (*LB Enfield v (1) Outdoor Plus Ltd (2) JC Decaux* [2012] EWCA Civ 608). Acting for the

Defendant in a claim for £12million on a release fee basis. The claim involves shared ownership leases, the effect and construction of planning obligations and allegations of sham. She has a particular interest in release fee damages, and frequently advises on them in different contexts, including in numerous restrictive covenant, trespass and right of light cases. She has also lectured on the topic.

Acting for the Rothschild Trust (Bermuda) Limited in relation to a claim for damages arising out of defective curtain walling, giving rise to the highest yet award of damages in a residential case.

Acting for East Homes Ltd in relation to a claim for £22million arising out of an "all reasonable endeavours obligation" and overage provisions in relation to land neighbouring the Olympic Village. The case involved complex planning issues, questions of construction and implied terms, as well as complex expert, valuation and factual disputes.

Acting in a wide range of 1954 Act cases, including several ground f cases related to a large redevelopment in Soho and the multi-billion pound redevelopment of various main line stations including London Bridge and Waterloo, as well as several redevelopment break cases.

Acting in a number of dilapidations cases, including in relation to the only railway test track in the country.

Acting for a company which designs and manufactures specialised and armoured vehicles in relation to a multi-million pound claim under a joint venture for the manufacture of a large fleet of armoured vehicles pursuant to a government contract.

Defending a multi-million pound claim in relation to a claim for the share of profits of a development based on proprietary estoppel and a *Pallant v Morgan* equity.

Acting in a claim for rectification of a share sale agreement relating to the purchase of shares for £13million.

Acting for the successful vendor in relation to a contract for sale of property. Summary judgment was granted in favour of the vendor who claimed that the purchaser's failure to pay a deposit on time amounted to a repudiatory breach of the contract entitling the vendor to terminate it (*Samarenko v Dawn Hill House* [2011] EWHC 3058).

## A superb advocate

Chambers & Partners

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