

Common Pitfalls in Possession Proceedings

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Introduction

- 1) “Persons Unknown”
- 2) Procedural traps
- 3) Proving the right to possession
- 4) Possession or an Injunction?
- 5) The Order
- 6) Other Powers



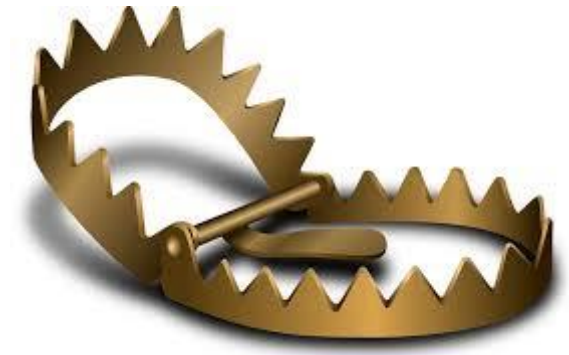
“Persons Unknown”

- *Bloomsbury Publishing Group Ltd v News Group Newspapers Ltd* [2003] 1 W.L.R. 1633
- *Malik v (1) Persons Unknown, (2) Reynolds (3) Matthews*, Central London County Court, 19 July 2012 (unreported)
- *The Arch Company Properties Ltd v Persons Unknown*, HC QBD, 14 May 2019 (unreported)



Procedural Traps

- County Court or High Court?
 - Practice Note
- Wrong procedure/ Claim Form
- Service of the Claim
 - Certificate of service
 - Against persons unknown
 - Abridging time
 - *Sun Street Property Ltd v Persons Unknown* [2011] EWHC 3432 (Ch)



Proving the Right to Possession

- Proof of title or the right to possession
- Licensees
 - *Manchester Airport Plc v Dutton* [2000] Q.B. 133; [1999] 3 W.L.R. 524
 - *Countryside Residential (North Thames) Ltd v T* (2001) 81 P. & C.R. 2; [2000] 3 P.L.R. 55



Possession or an Injunction?

- *Secretary of State for the Environment, Food and Rural Affairs v Meier* [2009] UKSC 11; [2009] 1 W.L.R. 2780
- *Vastint Leeds BV v Persons Unknown* [2018] EWHC 2456 (Ch) ;[2019] 4 W.L.R. 2

The Order

- Recital – record the basis for possession.
- Possession forthwith – *McPhail v Persons Unknown* [1973] 3 WLR 71.
- Damages for trespass – evidence of the ordinary letting value.
- Costs.
- Urgency – draft orders

Other Powers

- Part 1, Anti-social Behaviour Crime and Policing Act 2014
 - Local Authorities
 - Housing Providers
 - Police
 - British Transport Police
 - Transport for London
- Section 222, Local Government Act 1972

Thank you for listening

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