

# Kimberley Ziya

## Issues with Insolvent Landlords

## Can a trustee in bankruptcy seek possession?



- Functions of a trustee in bankruptcy: s.305
- Immediate vesting of the bankrupt's estate: s.306
- Power to “bring, institute or defend any action or legal proceedings relating to the property”: s.314 & para 2, Sch.5

## Garwood v Bolter [2015] EWHC 3619

- Bankrupt owned 3 properties
- Value ≈ £30,000 each
- Trustee sought order for sale w/ vacant possession
- Problem: who are the occupiers?



## Service of notices

- Security of tenure for resi tenants
  - Various notice requirements
  - What kind of tenancy?
  - What form of notice?
  - Who needs to be served?
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- Difficult for trustee in Garwood



## What procedure should be followed?

- IA or Part 55?
- Some form of pleading against the tenant required
- Possession order may be available under s.363
- BUT application must include allegation of cause of action
- Merits vs. procedural irregularities
- Seems to ignore:
  - Scope of Part 55
  - ss.8 & 21, Housing Act 1988
- What about PD51Z?