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Contents	**TMTF (NH) Ltd v Havin Hevedi & Anor [2025] EWHC 1013 (Ch)** The High Court held that the defendant was not in actual occupation of the property at the time the mortgage was granted, so any alleged beneficial interest did not constitute an overriding interest under Schedule 3 paragraph 2 of the Land Registration Act 2002. As a result, the lender's registered charge took priority, and the lender was entitled to possession. **Estate of Euan McIntyre Lindsay (Deceased) & Anor v Outlook Finance Ltd & Anor [2025] EWHC 3100 (KB)** This case enabled the High Court to explore when a judgment obtained by fraud may be set aside not only against the fraudulent party but also against an innocent co-defendant. The case highlights the interaction between fraud and equitable principles as well as the practical implications for lenders. **Ebanks v (1) Salcombe Road Limited, and (2) Onesavings Bank Plc** This case concerned a reference to the FTT by HM Land Registry in relation to the dealing with an application to alter the register and remove a purported unlawful transfer of registered title and related charges. The case required close scrutiny of numerous documents, statements from numerous witnesses who provided conflicting accounts of the history of property transactions and the application of registration principles under the Land Registration Act 2002.

Case name Neutral citation	MTF (NH) Ltd v Havin Hevedi & Anor [2025] EWHC 1013 (Ch)
Facts	In this case, the claimant, MTF (NH) Ltd, attempted to enforce its legal charge over a residential property. The first defendant, Havin Hevedi, lived at the property during a period of

	cohabitation with the registered owner (D1). When the relationship ended, and D1 moved out, D2 continued to occupy the property intermittently. During this period, the property was marketed for sale online and D2 took steps to disrupt any potential sale arising from that marketing and changed the locks. His presence was sporadic and he did not retain personal possessions at the property. A legal charge in favour of the claimant was registered on the title in September 2024.
Issues	The question for the Court was whether D2 was in actual occupation at the time the charge was created and therefore had an overriding interest that took priority over the claimant's charge.
First instance	At first instance, the judge found that D2 was not in actual occupation on the relevant date and therefore could not claim an overriding interest. The basis included the intermittent nature of his presence, absence of personal belongings, and lack of intention to resume continuous occupation.
Decision on appeal	On appeal, the High Court upheld the conclusion that D2 was not in actual occupation for the purposes of the LRA 2002 at the time the legal charge was created. Specifically: • No Actual Occupation had been established: D2's presence was intermittent with no continuous physical occupation or personal possessions at the property at the critical time. • Activities such as sporadic visits, absence of personal items, and lack of demonstrable intention to return negated the possibility of actual occupation. • The issue of proxy presence was considered by the Court. The occupation by D2's cousin and family could not be attributed to D2; their presence was independent and not as his agent or caretaker.
Comment	As practitioners will be aware, under Schedule 3, paragraph 2 of the LRA 2002, a person in actual occupation may have an equity that overrides registered dispositions, such as a mortgage or legal charge. The test for actual occupation focuses on physical presence, manifest connection to the land, and an intention to occupy.

	The Court in this case emphasised that actual occupation requires a degree of permanence and that sporadic presence, without continuous physical occupation or intention to return, does not satisfy the statutory test. Absence of personal effects and demonstrable intention on the relevant date were key factors in displacing an overriding interest claim. The decision provides guidance on the kinds of evidence that may (or may not) satisfy actual occupation, especially where an occupier's connection to property is irregular or unclear. The important takeaway is that mere intermittent presence, or actions taken to protect a property (e.g., lock changes), do not equate to actual occupation if, on the relevant date, the person lacks a clear, continuing, manifest residence. Why It Matters This case is a useful example of the level of continuity and visibility of presence required for an overriding interest to arise under the LRA 2002. It reinforces that courts will look for clear indicators of occupation at the critical moment of registration or disposition and not retrospectively attribute occupation where evidence is lacking. It also highlights the importance for lenders and conveyancers to consider carefully the factual matrix of occupation when advising on priority and potential overriding interests.

Case name Neutral citation	Estate of Euan McIntyre Lindsay (Deceased) & Anor v Outlook Finance Ltd & Anor [2025] EWHC 3100 (KB)
Summary	This case enabled the High Court to explore when a judgment obtained by fraud may be set aside not only against the fraudulent party but also against an innocent co-defendant. The case highlights the interaction between fraud and equitable principles as well as the practical implications for lenders.
Facts	The claimants (the Lindsays), a family of Scottish dairy farmers, had previously obtained loan funds from Outlook Finance Ltd secured on two farms and livestock. The claimants defaulted on their obligations, and as a result, as the agreements permitted, Outlook appointed an insolvency practitioner as an

	LPA receiver over one of the farms in Cumbria in 2012. In 2014, on application by the Claimants, the High Court rejected the Lindsays' challenge to the appointment and related claims, preferring evidence from Outlook's director. It transpired that the Director who gave evidence in those proceedings was discredited as he was shown to have lied and fabricated evidence. The Lindsays did not challenge the loan and security documents at trial, but pursued new litigation in Scotland and obtained findings of fraudulent misrepresentation and undue influence in respect of those documents. The dispute continued, and in 2023, the Lindsays brought new proceedings against Outlook and the insolvency practitioner who had been appointed as an LPA Receiver as the second defendant in the High Court in England. In those proceedings, the Lindsays sought to set aside the 2014 judgment on the basis that it had been procured by fraud and to obtain a retrial of their substantive claims, including allegations that the receiver's actions were tortious.
Decision	The High Court found for the Claimants and set aside the 2014 judgment as against both the fraudulent party (Outlook) and the innocent LPA Receiver co-defendant , and ordered a retrial. There was no prior binding authority directly on whether a judgment tainted by fraud could be set aside against an innocent co-defendant who was not personally implicated in the fraud. The second defendant contended it would be unfair and inequitable for such relief to apply to him, given his non-involvement in the fraud. The Court held: Fraud "infects" the whole judgment, and where it is established that the original decision was procured by fraud, it can taint the entire judgment as an equitable matter, not merely the findings against the fraudulent party. The test for setting aside is directed to the judgment itself, rather than to individual parties. Innocent involvement does not automatically preclude setting aside; instead, the Court applies equitable principles to determine whether it is fair and equitable to set aside the judgment against all defendants in the

	circumstances. As the fraud materially impacted the integrity of the original judgment, the appropriate remedy was to set it aside and remit the case for retrial.
Comment	English law recognises that a judgment obtained by fraud may be set aside where the fraud was material, using the test established in Royal Bank of Scotland plc v Highland Financial Partners LP [2013] EWCA Civ 328 In the current case, the Court emphasised that the focus is on whether the judgment as a whole stands when the fraud is shown to have influenced its outcome, and not solely on whether each defendant was involved in the fraud itself. This decision provides important guidance on the scope of relief available where judgments have been obtained by fraud, confirming that fraud can justify setting aside a judgment as to all parties, including those not personally implicated, where equitable considerations support doing so. The test for setting aside is focused on the judgment's integrity, integrating longstanding equitable doctrines about fraud unravelling legal instruments. The lesson to be learned from the case is that there is potential for historic decisions to be revisited where underlying fraud may have impacted outcomes, and consider strategic options for fresh proceedings where appropriate.

Case name Neutral citation	Ebanks v (1) Salcombe Road Limited, and (2) Onesavings Bank Plc Not Available
Summary	This case concerned a reference to the FTT by HM Land Registry in relation to the dealing with an application to alter the register and remove a purported unlawful transfer of registered title and related charges. The case required close scrutiny of numerous documents, statements from numerous witnesses who provided conflicting accounts of the history of property transactions and the application of registration principles under the Land Registration Act 2002.
Facts	The applicants, John Henry Ebanks Senior (JHE) and Irene Anne Ebanks (IAE),

	had been registered proprietors of a freehold property at 25 Salcombe Road, London (Title EX43328) since 1986. Following a series of complex transactions supported by a number loan agreements and company structures, culminating in the property purportedly transferred in October 2018 to Salcombe Road Ltd (SRL). A legal charge was later registered in favour of OneSavings Bank Plc (the Bank). The applicants contended that they never executed relevant documents nor did they authorise the transfer of related documents. They contended that the register should be rectified to reinstate their title and remove the Bank's charge. SRL and the Bank rejected the assertions of the applicants, claiming the documentation was genuine and supported by earlier unregistered transactions, which, if proved, would validate the chain of dealings. The matter was referred to the Tribunal by HM Land Registry and heard over multiple sessions due to its complexity, with extensive documentary evidence and witness testimony.
Issues	The issues before the FTT related to the authenticity of documentation and its legal effect. The FTT decided, in considering the factual matrix and evidence relating to the execution and authenticity of documents, that the Tribunal, in rejecting the application, concluded: 1. The Bank's application was upheld, meaning the purported transfer and subsequent registration as recorded on the title remained effective. The applicants' request to alter the register and remove the Bank's charge was refused. 2. The Beneficial Interest in the property was retained by JHE despite the legal title remaining with SRL. These conclusions were reached after exhaustive examination of contested documents — including alleged transfers, loan agreements, charges, and other instruments, and extensive witness evidence on signature authenticity and factual circumstances.

Comment	Under the Land Registration Act 2002, the register is intended to reflect conclusively the legal title to registered land conclusively. A challenge to an entry, especially one claiming forgery, lack of execution, or mistake, requires clear and compelling evidence. This case demonstrated the difficulty applicants face when asserting that dealings with registered land were unauthorised, particularly when HM Land Registry had relied on documents that on their face appear valid. The Tribunal had to examine how documents had been signed and executed when faced with conflicting witness evidence from parties who lacked credibility. The decision underscores that simply disputing the existence or authenticity of a document may not be sufficient without strong, corroborated evidence, especially in complex and intertwined financial arrangements.

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