Neutral Citation Number: [2026] EWHC 2098 (Ch)

Case No: PT-2025-000699

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY TRUSTS AND PROBATE LIST (ChD)

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date:14/8/2026

Before:

MASTER CLARK

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Between:

MISS LAURA LILLIAN KEY **(as executor of the estate of Grace Baillie Key (deceased))**	**Claimant**
- and -	
MR RICHARD DUNCAN KEY **(as executor of the estate of Grace Baillie Key (deceased))**	**Defendant**

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Simon Lane (instructed by **Stephen Rimmer LLP**) for the **Claimant**
James Saunders (instructed by **Clarion Solicitors Limited**) for the **Defendant**

Hearing date: 30 July 2026

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Approved Judgment

This judgment was handed down remotely at 10am on 14 August 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Master Clark:

1. This is my judgment on the issues identified in my order dated 8 January 2026 ("the January order") in this Part 8 claim:
   (1) Should the parties be removed as executors of the estate of the Deceased and replaced by independent administrators, or should they remain in post as executors and the following issues be determined?
   (2) What is the proper sale price for Ebury Lodge?
   (3) Is the Defendant liable to pay an occupation rent for his occupation of Ebury Lodge?
   (4) If so, what is the market rent payable by the Defendant for his occupation of Ebury Lodge?
   (5) If the Defendant is liable to pay for his occupation of Ebury Lodge, should any discount be given by reference to any benefit to the estate resulting from the Defendant's occupation?

Parties and introduction

2. The claim concerns the estate of Grace Baillie Key, who on 28 September 2022 aged 84, leaving a will dated 11 November 2014 ("the Will").

3. The parties, Laura Key and Richard Key are the adult children of Mrs Key- without intending any disrespect, I refer to them by their first names. They are joint executors of and the only beneficiaries under the Will.

4. Laura seeks the appointment of an independent administrator. She does not accept that there are any grounds for her removal, but is willing to step down if Richard is removed. The proposed administrator is Cripps Trust Corporation Limited ("Cripps"). It has provided an estimate of its fees:
   (1) Work required for and obtaining grant of probate: £6-9,000 plus VAT;
   (2) Administering estate after grant of probate: £20-25,000 plus VAT.

5. The principal assets of the estate are:
   (1) Ebury Lodge, Westland Green, Little Hadham, Ware, SG11 2AF ("the Property") with a probate value of £2m;
   (2) Mrs Key's interest/shareholding in the family business Ebury Court Residential Home Limited (the "Company") – the Will makes specific gifts of 50% of this shareholding to each party;
   (3) Personal chattels and a small life policy.

6. Draft estate accounts prepared by Richard's solicitors show, as at 5 November 2024:

(1) Gross estate: £2,280,952.22;
(2) Liabilities: £366,749.87;
(3) Net estate: £1,914,202.35;
(4) IHT on date of death: £556,388.14; interest to 5 Nov 2024 £67,040.21; total IHT and interest £623,428.35.

At the hearing I was informed that the total interest on IHT is now about £142,000, with a daily rate of £117.81.

7. In her evidence, Laura says that she does not accept that the schedule of assets in these accounts is accurate. She challenges some of the expenses listed as personal and arising out of Richard's occupation of the Property. However, unhelpfully that is the limit of her response to the accounts. She has not indicated which parts of them if any she accepts, or if there are any other parts she does not.

8. It is common ground that Laura and Richard are estranged. Indeed, just over a week after Mrs Key's death, Laura had instructed solicitors to write to Richard alleging that he had excluded her from the Property and removed Mrs Key's belongings, with a 14 point list of confirmation that various things would or would not be done (including feeding the cat), and requiring copy documents or information. Richard did not reply to those letters, nor does he respond in his evidence to these allegations. There was also a dispute about whether there should be a funeral service (or a direct cremation); and although eventually Laura accepted that there could be a funeral service, she did not attend it.

9. In addition to this claim, the parties are also litigating in the High Court about the Company.

10. In this claim, the legal costs to date are disproportionate to the nature of the dispute. Laura's costs total £170,000 and Richard's are £96,000, making a total of £266,000.

Factual background

11. I set out as briefly as possible the background to the claim. As is usual in Part 8 claims, all the evidence was in written form, and there was no oral evidence.

12. Just over a week after Mrs Key's death, Laura (in her solicitors' letter dated 6 October 2022, followed by their letter dated 10 October 2022) sought the appointment of an independent administrator. Richard proposed an independent firm of solicitors, BRM; and on 18 October 2022, Laura confirmed that she had instructed them to deal with probate.

13. Richard has also from the outset carried out all necessary repairs and maintenance at the Property. He registered the death and used the Tell Us Once service to notify a range of government agencies of it.

14. On 18 November 2022, Richard forwarded to Laura a market appraisal of the Property by Savills, valuing it at £2,250,000 to £2,500,000.

15. In December 2022, following a dispute about whether Laura had been provided with a full set of keys to the Barn at the Property, Laura blocked the email addresses and phone numbers of Richard and his wife, Lisa, and required all communications to be through her solicitors.

16. On 11 January 2023, at Richard's request Chantry & Co sent him a quote for providing a Red Book valuation of the Property.

17. On 23 January 2023, Laura wrote to Richard alleging he was unreasonably delaying the administration by failing to engage or discuss the estate; and asking him to renounce, failing which she would apply to court.

18. She followed this up on 24 February 2023, again alleging lack of action which she said was delaying the application for probate.

19. On 7 March 2023, Richard asked Laura to confirm to BRM that there was no conflict of interest between them in the sale of the Property, so that viewings could take place. It would seem she did so.

20. On 28 March 2023, the inheritance tax on the estate fell due. There were no liquid funds to pay it, and it was not paid.

21. On 31 March 2023, Richard began collating lifetime gift information, and emailed Laura to ask her to do the same.

22. In April 2023, Savills began marketing the Property at £2.5 million. There were a limited number of viewings and no offers.

23. On 22 and 25 April 2023, Laura again asked for a detailed list of information and documents that Richard had removed from the Property; and said she would bring a removal claim if they were not provided. This was followed up on 27 April 2023.

24. On 28 April 2023 Richard sent Laura a detailed account of the repair and maintenance work done at the Property by him and his family, including that he had taken a loan from his director's loan account with the Company to cover the cost. He confirmed that Laura's belongings remained at the Property. Laura replied to say that she had never been consulted on anything relating to her mother's death, belongings, estate, property etc.

25. On 29 April 2023, Richard emailed Chantry & Co to ask them to carry out the Red Book valuation. Laura wrote the same day to countermand it, saying that she had not been consulted. However, it would seem she eventually agreed, because on 21 July 2023, Richard wrote to Chantry & Co to say she had accepted the valuation.

26. In May 2023, Richard suggested taking the Property off the market and renting it, to which Laura was opposed, and it remained on the market at £2.5 million until November 2023.

27. On 27 June 2023, Richard sent Laura a detailed list of items and works done. On 29 June 2023 he asked for payment of half the electricity bill; and on 17 July for payment of half of the other bills paid. He again asked Laura to agree to renting the Property to generate income to meet these bills and mortgage payments on the Property (about £29,000 p.a.). Laura would not agree to this on the ground that the mortgagee would not allow the Property to be rented out and required its mortgage to be redeemed. The mortgagee's position was set out in correspondence with both parties, but Richard continued to insist that the Property be rented.

28. The Red Book valuation, dated 22 July 2023, valued the Property at £2 million. The Property continued to be marketed, but no offers were made. On 10 August 2023, Laura suggested a price reduction to £2.25 million.

29. Richard's response on 14 August 2023 to Laura's refusal to agree to the Property being rented was to enter a caveat. There is no basis on which this could be justified and his counsel did not seek to do so. In particular, Richard did not engage with the mortgagee's prohibition on renting. His insistence that the Property be rented was repeated in his email of 25 August 2023, accompanied by a threat to apply for Laura's removal and replacement by their father.

30. In September 2023, BRM ceased to act because they were receiving conflicting instructions. Their charges were inflated, at least in part, as a result of their inability to obtain any positive instructions from Laura, and being copied in to emails between the parties: as set out in the email dated 19 December 2023 of Mr Woodhead of BRM.

31. On 13 October 2023, on Richard's case he paid £22,031.29 towards mortgage arrears.

32. On 24 November 2023, Richard proposed a reduction in the asking price to £1.9 million. Laura did not agree, and it was reduced to £2 million. It remained on the market until May 2024. No offers were received during that time.

33. On 1 March 2024, the parties' father, Rodney Key paid £330,000 towards mortgage arrears, leaving £41,510.71 outstanding.

34. On 6 March 2024, Richard's solicitors wrote to Laura setting out that it was unlikely that she and Richard would be able to work together as executors given what has previously occurred. They invited her to consider agreeing to Richard applying for a grant with power reserved to her.

35. Laura's solicitors replied on 22 March 2024, agreeing that the parties could not work together to administer the estate, and inviting Richard to propose 3 solicitors to act as professional executors.

36. On 3 June 2024, the mortgagee indicated that it would start possession proceedings if the outstanding amount due under its mortgage was not paid.

37. On 17 June 2024, Richard offered to buy out Laura's interest in the Property, and suggested a mediation.

38. Richard's case is that shortly thereafter he paid the entire outstanding amount (£42,105.70), so that the mortgage was discharged.

39. Laura's reply of 12 August 2024 did not engage with Richard's proposal to buy her out, and reiterated her position that an independent administrator should be appointed.

40. This was rejected by Richard on the basis that if matters could be agreed at a mediation, then an independent administrator would add unnecessary additional costs.

41. The mediation took place on 21 November 2024. It did not succeed. On 3 March 2025, Richard invited Laura to renounce.

Claim

42. The claim form was issued on 10 July 2025. There are no Details of Claim, so the basis of the claim is set out in the 1st witness statement of Laura. These are:

(1) a complete breakdown in the relationship dating back to before Mrs Key's death;
(2) delay on Richard's part;
(3) Richard moving in to the Property, and not paying rent to the estate;
(4) untruthfulness – misrepresenting the state of the property market to her;
(5) entering the caveat;
(6) removing paperwork and not sharing it with her;
(7) falsely representing that he had contributed to discharging the mortgage on the Property;
(8) forging her signature on a NatWest account and on a loan agreement entered into by the Company;
(9) paying his personal tax bill from their joint business;
(10) taking £17,000 from the Company to which he was not entitled;
(11) accessing her online account with AXA Health;
(12) lateness in filing the Company's accounts.

43. Richard acknowledged service contesting the claim. Section B of the form contains the heading: "Give brief details of any different remedy you are seeking". This reflects the provisions of CPR 8.3(2). Under that heading, he stated:

> "The Defendant seeks directions from the court on the estate administration matters on which the parties disagree. This will allow the parties to apply for a Grant of Probate without incurring the costs and delays of appointing a professional administrator, which would be detrimental to the beneficiaries."

44. The directions sought by Richard were set out in his witness statement dated 18 August 2025.

45. Laura's counsel submitted that Richard was not entitled to seek those directions because he had not made a formal counterclaim (for which the court's permission would be required). However, in my judgment, CPR 8.3(2) entitles a defendant without permission to seek a different remedy arising out of the matters relied on by the claimant. This is not inconsistent with CPR 8.7, because a counterclaim would require a separate cause of action i.e. factual matters constituting the basis of a separate claim.

46. Richard's position in his evidence is he remains willing to jointly administer the estate with Laura, and that notwithstanding "her feelings about me", there is no reason why they cannot act as co-executors. In support of this, he asserts that:
(1) the estate is relatively straightforward, and the steps needed to finalise it are clear;
(2) any disagreement can be resolved by the court giving directions;
(3) the parties can instruct solicitors to do what they cannot do themselves.

47. There was a directions hearing in the claim on 8 January 2026, at which Laura confirmed that she did not object to Richard purchasing the Property at market value; and I ordered the issues set out at paragraph 1 above to be determined. I also gave directions for expert evidence in the form of a single joint expert report on the issues of:
(1) the present market value of the Property; and
(2) its historic annual rental value since September 2022.

48. The single joint expert, Daniel Martin, of Martin & Martin, produced his report on 9 June 2026, concluding that, in his opinion:
(1) the market value of the Property was £1,650,000 as at the date of the report;
(2) the estimated rental values of the Property (£ per calendar month) were:
September 2025: 4,250
September 2024: 3,880
September 2023: 3,650
September 2022: 3,485.

Legal principles

49. The relevant legal principles are summarised by Chief Master Marsh in *Harris v Earwicker* [2015] EWHC 1915 (Ch) at [9]:

> "i. It is unnecessary for the court to find wrongdoing or fault on the part of the personal representatives. The guiding principle is whether the administration of the estate is being carried out properly. Put another way, when looking at the welfare of the beneficiaries, is it in their best interests to replace one or more of the personal representatives?
> ii. If there is wrongdoing or fault and it is material such as to endanger the estate the court is very likely to exercise its powers under section 50. If, however, there may be some proper criticism of the personal representatives, but it is minor and will not affect the administration of the estate or its assets, it may well not be necessary to exercise the power.
> iii. The wishes of the testator, as reflected in the will, concerning the identity of the personal representatives is a factor to take into account.
> iv. The wishes of the beneficiaries may also be relevant. I would add, however, that the beneficiaries, or some of them, have no right to demand replacement and the court has to make a balanced judgment taking a broad view about what is in the interests of the beneficiaries as a whole. This is particularly important where, as here, there are competing points of view.
> v. The court needs to consider whether, in the absence of significant wrongdoing or fault, it has become impossible or difficult for the personal representatives to complete the administration of the estate or administer the will trusts. The court must review what has been done to administer the estate and what remains to be done. A breakdown of the relationship between some or all of the beneficiaries and the personal representatives will not without more justify their replacement. If, however, the breakdown

of relations makes the task of the personal representatives difficult or impossible, replacement may be the only option.

vi. The additional cost of replacing some or all of the personal representatives, particularly where it is proposed to appoint professional persons, is a material consideration. The size of estate and the scope and cost of the work which will be needed will have to be considered."

50. In *Schumacher v Clarke* [2019] EWHC 1031 (Ch), Chief Master Marsh reiterated that "the core concern of the court is what is in the best interests of the beneficiaries looking at their interests as a whole" (para.18).

51. In *National Westminster Bank plc v Lucas* [2014] EWHC 653 (Ch), para.80, the helpful working test adopted by Sales J was that it will be appropriate to remove a personal representative if there is a real risk that they will not act fairly and conscientiously in that office or if they cannot be expected to carry out the administration in an effective and proper manner;

52. The Court's discretion under s 50 is to be exercised in a pragmatic way: see *Long v Rodman* [2019] EWHC 753 (Ch), at [19];

53. The removal of a representative will be justified where they display inappropriate hostility towards beneficiaries: see *National Westminster Bank plc v Lucas* [2014] EWHC 653 (Ch) (where such hostility was not, however, established on the facts).

Discussion and conclusion

54. It has, in my judgment, been clear from the outset that Laura does not want to administer the estate with Richard: she first proposed an independent administrator in her solicitors' letters in October 2022.

55. Notwithstanding this, there has been some co-operation between them:
(1) they jointly instructed BRM;
(2) they managed to agree the funeral arrangements, after their initial disagreement;
(3) they jointly instructed and worked together with Savills;
(4) Richard asked Laura to compile a list of lifetime gifts to her from Mrs Key (for IHT purposes);
(5) although she initially objected, Laura ultimately agreed to Chantry & Co's instruction to produce a probate valuation of the Property;
(6) the parties discussed rental of the Property, although they could not agree.

56. However, the overall picture is of a relationship riven with conflict and mistrust, with fault on both sides. Richard initially excluded Laura from the Property, and access to Mrs Key's paperwork. He has often not copied her in when communicating with

professional advisers (although she was of course free to contact them herself). His approach to renting the Property was entirely unreasonable, when the mortgagee's refusal was an absolute bar to doing so. Even more unreasonable was his response to Laura's not agreeing to rent the Property, by entering a caveat. There were no proper grounds on which a caveat could be entered, and the effect of entering it was of course that a grant of probate could not be obtained while the caveat subsisted.

57. Laura criticises Richard for moving in to the Property without her consent. However, the reality is that she would not have consented; and Laura has not cited any authority showing that as a matter of law that Richard as a joint executor required it. In any event, in circumstances where the Property had remained empty for 3 years, I accept that its occupation was likely to protect it and preserve its value, which would be beneficial to the estate. That is not to say that Richard was entitled to occupy rent free.

58. On the other hand, Laura has repeatedly refused or failed to engage so as to progress the administration of the estate, which is her responsibility equally with her brother. To that extent, she also bears responsibility for the delay. On 22 April 2023, she wrote to Richard stating that she required to be provided with a full inventory of the items taken from the Property "before this probate process goes any further".

59. Laura also makes a host of complaints against Richard which either have not or cannot be substantiated:

(1) In her 2nd witness statement, a complaint of "financial abuse" which was struck out.

(2) Untruthfulness – misrepresenting the state of the property market to her: in their email dated 24 November 2023, Savills describe the market as "challenging" (and recommending a dramatic change to the marketing strategy). Laura has not adduced any evidence to show otherwise. In any event, the history of the attempts to sell the Property show that it simply could not be sold, either at the original price of £2.5 million or the reduced price of £2 million.

(3) Falsely representing that he had contributed to discharging the mortgage on the Property: Richard's evidence (supported by a statement of truth) is that he personally paid a total of £64,137 towards the mortgage arrears and redemption of the mortgage.

(4) Forging her signature on a NatWest account and on a loan agreement entered into by the Company: this is denied by Richard and Laura has not adduced any evidence to support it.

(5) Paying his personal tax bill from their joint business; taking £17,000 from the Company to which he was not entitled; lateness in filing the Company's accounts.

These are matters outside the administration, denied by Richard, and the subject of separate litigation. There is no evidence substantiating them in this claim.

(6) Accessing her online account with AXA Health. There is correspondence in the bundle from AXA Health confirming that they have been unable to find any evidence of fraudulent activity on Laura's account.

60. Finally, there is evidence that Richard (and his family) have spent considerable time and expense in repairing and maintaining the Property, to which expense Laura has not contributed at all, even when asked to do so.

61. The question for the Court is whether there is any realistic prospect of these parties co-operating to conclude the administration of this estate. In my judgment, the history (and indeed the parties' positions at the hearing) compels the conclusion that there is no realistic prospect of this.

62. In particular, the determination of the issues identified in the January order would not, in my judgment, remedy the fundamental underlying distrust and hostility between the parties, so that further issues would inevitably arise. Those issues would need to be brought back to court, and I do not consider that it would be a proportionate use of the court's resources to determine those issues.

63. By contrast, an experienced and competent professional administrator such as Cripps will be in a position to resolve those issues by keeping an even hand between the parties, and determining them in an impartial way, without the need to obtain guidance from the court.

64. I will therefore appoint Cripps as an independent administrator of Mrs Key's estate.

Other issues

65. In those circumstances, since the parties are not remaining in post, the issues in the January order do not arise. However, since they were fully argued, and it may be of help to the independent administrator, I briefly express a view on these issues.

<u>Proper sale price for the Property</u>

66. Laura submitted that the only way in which a proper sale price for the Property could be determined would be by an open-market sale with vacant possession. I reject that submission. As explained in *Lewin on Trusts* (20th edn) at 46-045, if the court considers that the interests of the estate will be best served by a purchase by the executor without the property being marketed, the purchase may be authorised despite opposition from the other beneficiary: *Brown v Brown* [2019] EWHC 138 (Ch) at [38] –[54]. In *Brown*

at [40], Master Teverson rejected the claimant's submission that it would generally be inappropriate for the court to order a sale at a valuation because valuations do not properly test the market. At [38], he said:

> "In the case of two adult beneficiaries who cannot agree over price, … the executor beneficiary faced with this difficulty is in my view acting fairly and properly in accordance with his duties by obtaining a valuation report from a fully qualified valuer who is instructed to give his report on the same basis as an expert witness for the court."

67. Where, as here, the prospective purchaser is no longer an executor, and only a beneficiary, then the reasons for allowing an off-market sale based on valuation evidence have even greater force.

68. Laura made several criticisms of the expert's report. The first was that he had initially provided a single value, and not a range of values, only doing so when asked by Laura's solicitors. Her counsel submitted that the appropriate value for a purchase by Richard was the upper value of the range, £1,897,500. He relied upon the fact that in *Brown*, the defendant had offered to buy at a valuation £10,000 higher than any previous appraisal or marketing recommendation, and the judge approved it. The judge was not however required to decide whether a lower price would have been sufficient; and *Brown* is not therefore authority for the proposition that an executor/beneficiary is obliged to buy at the upper end of a range of market value. In any event, as noted above, once replaced by Cripps, Richard would no longer be subject to the constraints of a fiduciary.

69. Her second criticism was that the valuation was a vacant-possession valuation, which took no account of the occupation of the Property. This is, in my judgment, misconceived, as the proper price is the price if the Property were sold on the open market with vacant possession.

70. Her final criticism is also very weak. The joint letter of instruction to the expert stated that he should not have any discussion with Richard beyond confirming his identity. The expert's report states that:

> "Mr Richard Key was present in the property for the entirety of the inspection although he was only in contact with me for a few minutes at the start and a few seconds at the end."

71. Laura raised a question to the expert as to this, to which his reply was that "discussion" was the wrong word to use, but that Richard had told him certain things about the property:

> "his recollection of the approximate age of the house and when the various extensions and the pool were constructed. I heard what he said. I did not record any of it other than the date he told me the pool was built, nor did I rely on it in any way in the preparation of my report other than in relation to the drainage arrangements, which I verified myself on inspection."

72. At the hearing, Laura's counsel did not dispute that the pool was, as the expert was told, built in the 1970s, nor suggest that this fact had any significant impact on valuation. His point seemed to be that the expert had not complied with his instructions not to speak to Richard, and that this vitiated his report. This is an archetypal instance of the unreasonable approach of Laura to matters relating to the estate.

<u>Occupation rent</u>

73. Richard has offered to pay occupation rent from August 2025.

74. The court has a broad equitable jurisdiction to do justice between the parties: *Brown* at [52]. The test in *Brown* is framed in the same terms as that applying between co-owners in *Ali v Khatib* [2022] EWCA Civ 481, [2022] 4 WLR 50: "the court is required to do broad justice between co-owners and to determine what would be fair". In that context it is recognised that

> "the default position at common law where one co-owner was in occupation and the other was not was that occupation rent was not payable. The position was the same in equity unless there was an ouster or a letting to a stranger for rent."

75. In my judgment, in determining the amount of occupation rent, the administrator will be able to take into account all the relevant circumstances, to do broad justice between co-owners and to determine what would be fair. These factors will include the market occupation rent, and any benefit to the estate of the Property being occupied. It may be appropriate to deduct a certain amount from Richard's share of the residuary estate to reflect the benefit to him of his occupation, without formally charging him an occupation rent. Finally, for the avoidance of doubt, Richard would be entitled to credit for the expenses properly incurred by him on the Property, but not expenses referable to his personal occupation of the Property.