

Neutral Citation Number: [2022] EWHC 2459 (Ch)

Claim No. PT-2020-000709

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

PROPERTY, TRUSTS AND PROBATE LIST (ChD)

Rolls Building
Fetter Lane,
London WC2A 2LL

Date: 5th October 2022

Before:

Deputy Master William Henderson

B E T W E E N:

TALVINDER SAHOTA

Claimant

-and-

(1) RAJAN SOHAL

(2) POOJA SOHAL

(3) VEENA SOHAL

Defendants

Counsel and solicitors:

The Claimant: represented by Mr Alastair Panton (instructed by Church Lane Solicitors)

The First Defendant: in person

The Second and Third Defendants: represented by Mr Karl Anderson (instructed by Fahri LLP)

Hearing dates: 25 and 26 May 2022

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down remotely by email may be treated as authentic. The date of the judgment is 5th October 2022 and the time for hand-down is deemed to be the time published in the Cause List (10:30)

JUDGMENT

Introduction

1. This is my judgment on the trial of an issue which was ordered to be tried by an order of Master Kaye dated 27 January 2022.
2. The issue ordered to be tried was as to the validity and effect of three Deeds of Trust, apparently dated 5 October 2012, 17 August 2015, and 17 May 2019.
3. The issue has arisen in the context of a Part 8 Claim issued on 14 September 2020 on behalf of the Claimant, Mr Talvinder Sahota (“Mr Sahota”), to enforce a charging order dated 18 June 2020 in proceedings brought by him against the 1st Defendant (“Mr Rajan Sohal”), by an action in the Queen’s Bench Division (“the QBD action”).
4. The order of 18 June 2020 made final an interim charging order dated 15 April 2020. It provided that the interest of Mr Rajan Sohal in the property known as 31 Windsor Road, Gerrards Cross, SL9 7ND with registered title BM365542 stand charged with payment of the sum of £273,629.16, the amount then owing under a judgment or order given on 14 November 2020. The date 14 November 2020 was a clerical error for an order made by Master Davison in the QBD action on 14 November 2019.
5. The QBD action comprised claims by Mr Sahota in respect of 3 contracts which he had entered into with Mr Rajan Sohal, in accordance with which he had invested money which was to be repaid by Mr Rajan Sohal with interest.
6. The issue ordered to be tried is important because if the transactions effected by the Deeds of Trust, in particular the first and the third, are valid and take priority over Mr Sahota’s charging order, then, having regard even to the most optimistic valuation or value of 31 Windsor Road, there is unlikely to be any equity left in the property out of which to satisfy Mr Sahota’s charging order.
7. By the Part 8 Claim Form Mr Sahota sought a determination as to Mr Rajan Sohal’s beneficial interest in certain properties and then, if appropriate, sale of the properties pursuant to s.14 TOLATA 1996. The properties were:
 - (1) 58 London Road and land at the NW side of London Road
 - (2) 17 and 19 Wycombe End
 - (3) 31 Windsor Road, Gerrards Cross
8. Initially the only Defendant to the Part 8 Claim Form was Mr Rajan Sohal. The claim form was amended pursuant to an order of Master Kaye to add Mrs Pooja Sohal as 2nd Defendant and Mrs Veena Sohal as 3rd Defendant.
9. Mrs Pooja Sohal is Mr Rajan Sohal’s wife. Mrs Veena Sohal is Mr Rajan Sohal’s mother.
10. Mr Rajan Sohal was made bankrupt by an order of 27 September 2021 on the petition of Hope Capital 2 Limited presented on 14 September 2020. I was told by Mr Panton that Mr Rajan Sohal’s trustee in bankruptcy had been informed of the proceedings, but had not asked to be joined. I considered whether to join the trustee in bankruptcy on the basis that the trustee in bankruptcy might have an interest in the proceedings. That

interest would arise because defeat for the Defendants might, depending on the figures, result in there being some equity in 31 Windsor Road which would be available for Mr Rajan Sohal's unsecured creditors. I decided that because the trustee had known about these proceedings, but had chosen not to be joined, it would probably be an abuse of process for the trustee to challenge the result of the hearing before me and that accordingly, having regard to the cost and delay which joinder or formal notice under CPR 19.8A would cause, it was not necessary or desirable to join the trustee or to order the giving of formal notice to the trustee at this very late stage.

11. Mr Sahota was represented before me by Mr Alasdair Panton. Mrs Pooja Sohal and Mrs Veena Sohal were represented by Mr Karl Anderson. Mr Rajan Sohal represented himself.
12. Mr Sahota challenges the validity and effects of the three Deeds on the following grounds:
 - (1) The possibility that the Deeds were made after the dates which they bear.
 - (2) The Deeds are shams.
 - (3) The Deeds created illusory trusts.
 - (4) As a matter of its interpretation clause 2 of the 17 May 2019 Deed gave Mr Sahota's charge priority over the interests of Mr Rajan Sohal, Mrs Veena Sohal and Mrs Pooja Sohal.
 - (5) The Deeds effected transactions made for the purpose of defrauding Mr Rajan Sohal's creditors within the meaning of s.423 Insolvency Act 1986.

The terms of the three Deeds

13. The 23 October 2012 Trust Deed ("the 2012 Deed") was drafted by Mr Rajan Sohal. It provided:

"THIS DECLARATION OF TRUST is made on the Friday 5th October 2012
BETWEEN Mrs Veena Sohal, Mr Rajan Sohal and Mrs Pooja Sohal
All mentioned parties above residing at 26 Cedar Close, Iver, Buckinghamshire, SL0 0QX

Mr Rajan Sohal and Mrs Pooja Sohal will take the benefit of the following assets mentioned below:
231 Rochford Gardens, Slough, SL2 5XD (Sales proceeds and refinancing)
26 Cedar Close, Iver Heath, SL0 0QX (Sales Proceeds and refinancing)
19 Morton Close, Uxbridge, UB8 3WR (Sales proceeds and refinancing)
11a Devonshire road, Chiswick, W4 2EU (Refinancing)
2 DLF Phase 1 properties in India (Sale proceeds)
Bank of Baroda deposits (Redemption)

Rajan and Poona will be purchasing 31 Windsor Road, Gerrards Cross, SL9 7ND to then develop a brand new 10,000 sq ft home.

2. NOW THIS DEED WITNESSES

Mrs Veena Sohal will take £2.5 million equitable interest/charge of 31 Windsor road, Gerrards Cross. SL9 7ND.

Mrs Veena Sohal cannot buy, remortgage or sell due to the legal requirement of age. Mr Rajan Sohal being the next of Kin and the only Son of the family will manage all these proceeds on behalf of Mrs Veena Sohal.

All parties being Mrs Veena Sohal, Mr Rajan Sohal and Mrs Pooja Sohal have signed this Declaration, being page 1 in total, as a Deed on the date above.

This agreement shall be governed by the laws of England and Wales.”

The Deed is signed by all three parties, dated and witnessed by a Mr Kiran Asahan.

14. The 17 August 2015 Deed (“the 2015 Deed”) was drafted by BP Collins, solicitors. Its parties were Mr Rajan Sohal and Mrs Pooja Sohal. It recited, (A) that 31 Windsor Road was transferred to Mr Rajan Sohal and Mrs Pooja Sohal to hold on trust for themselves as tenants in common and (B) that Mr Rajan Sohal and Mrs Pooja Sohal wished to declare the extent of their respective beneficial interests in the property. By the operative part of this deed Mr Rajan Sohal and Mrs Pooja Sohal declared that they held 31 Windsor Road on trust for themselves in the proportions: 25% for Mr Rajan Sohal and 75% for Mrs Pooja Sohal. The Deed appears to have been “signed as a deed” by Mr Rajan Sohal and Mrs Pooja Sohal, with their signatures having been witnessed by Anita Sehgal. Anita Sehgal is Mr Rajan Sohal’s sister. There is an issue as to whether her signature which appears on this Deed was actually her signature. I return to this issue below.
15. The 17 May 2019 Deed of Trust (“the 2019 Deed”) was drafted by solicitors. Its parties were Mrs Veena Sohal, Mr Rajan Sohal and Mrs Pooja Sohal. It did not make express reference to the earlier deeds, but to at least some extent it represented a combination of their contents.
16. The parties’ clause of the 17 May 2019 Deed of Trust provides that it was made:

“BETWEEN (1) Mrs Veena Sohal (2) Mr Rajan Sohal and Mrs Pooja Sohal (3) all of 17 Wycombe End Beaconsfield HP9 1 LZ (‘the trustees’)
17. There is a minor oddity with that clause in that Mrs Veena Sohal was never a trustee of 31 Windsor Road.
18. Recital (1) to the 17 May 2019 Deed recites that each of the trustees holds their beneficial interest in 31 Windsor Road “for their absolute use and benefit free from incumbrances and subsidiary trusts”.
19. Recital (2) to the 17 May 2019 Deed recites:

“It has been agreed between the Trustees that they shall hold the Property jointly as trustees for sale with power to postpone sale and that they shall hold the net proceeds of sale upon trust for themselves in the following shares”.
20. Clause 1 of the operative part of the 17 May 2019 Deed provides:

“The Trustees shall hold the Property on trust to sell the same with power to postpone sale and shall hold the net proceeds on trust for themselves in the following shares”

21. Clause 2 of the operative part of the 17 May 2019 Deed is headed “2 Veena Sohal’s share of the proceeds”. It then provides:

“VEENA SOHAL shall be entitled to the first £2,500,000.00 (Two Million Five Hundred Thousand Pounds Only) of any net proceeds of sale as shall remain after payment and discharge of all charges, borrowings and costs of sale.”
22. Clause 3 of the operative part of the 17 May 2019 Deed provides for Mr Rajan Sohal to be entitled to 25% “of the balance of the net proceeds of sale as shall remain after payment and discharge of all charges, borrowings and the costs of sale.”
23. Clause 4 provides for Mrs Pooja Sohal to be entitled to 75% “of the net proceeds of sale as shall remain after payment and discharge of all charges, borrowings and the costs of sale.” Clause 4, unlike clause 3 does not include the word “balance”, but in my view that is plainly implied, and nothing turns on that.
24. The 2019 Deed is signed by all three of its parties “as a deed” in the presence of Ranjit Kaur who has signed as a witness under all three of the parties’ signatures.

Procedural and pre-trial matters

25. The Part 8 Claim was supported by a statement by Mr Sahota dated 25 August 2020.
26. Mr Sahota exhibited to this statement an Official Copy of the Register of the title to 31 Windsor Road as at 25 July 2020. This showed:
 - (1) Mr Rajan Sohal and Mrs Pooja Sohal as joint proprietors.
 - (2) In an entry dated 17/1/13 that the price stated to have been paid on 10 January 2013 was £1.2m.
 - (3) A restriction that no disposition by a sole proprietor (except a trust corporation) under which capital money arose was to be registered unless authorised by an order of the court.
 - (4) A charge in favour of OneSavings Bank PLC dated 7 July 2017.
 - (5) A charge in favour of Castle Trust Capital PLC dated 10 November 2017.
 - (6) Restrictions in respect of Mr Sahota’s interim and final charging orders.
27. As regards 31 Windsor Road, Mr Sahota said that Mr Rajan Sohal had claimed that there was a trust deed in place with regard to his mother’s interest in the property, but, said Mr Sahota, the validity of this trust deed was “questionable” given that it was entered into at the same time that Mr Sahota had instructed solicitors in respect of what became the QBD action and as a letter before claim was sent out to Mr Rajan Sohal.
28. Mr Sahota exhibited the following drive by valuations of 31 Windsor Road:
 - (1) One dated 20 July 2020 by Alasdair Dunmur, a Senior Negotiator with the firm of Hilton King & Locke. Mr Dunmur recommended that the property be marketed at a guide price of £3.25 m, with a view to achieving offers in the region of £3.0 m.

- (2) One undated from Winkworth recommending an open market asking price of £2.75m to achieve a value of £2.6m.
29. Mr Sahota exhibited, amongst other things:
 - (1) A letter dated 1 July 2020 from Portcullis Property Lawyers. This referred to 58 London Road, Slough and land at the north west side of 58 London Road. Portcullis said they acted for Kamala Rani Dogra. They stated that their client had a restriction on the property “to cover a sum in excess of £350,000 due from that property.” They also stated that they understood that the mortgagees, Together Commercial Finance Ltd, were in the process of selling the property and that there would be insufficient monies from the proceeds of sale to discharge their first charge and the monies due to Mrs Dogra.
 - (2) An email dated 2 July 2020 from Mr Rajesh Kanda stating that he had a legal charge dated 17 June 2019 registered against 17 and 19 Wycombe End, Beaconsfield. Mr Kanda said that the legal charge was pursuant to a lending arrangement for the total sum of £400,000, comprised of capital lent £250,000, interest £100,000 and legacy interest £50,000.
30. In his first witness statement, which was dated 23 October 2020, Mr Rajan Sohal said, amongst other things, that he was making it in support of an order for sale of 31 Windsor Road, subject to a minimum sale price of £4,500,000, together with a direction that the first £2,500,000 of the net proceeds of sale were paid to Mrs Veena Sohal. In the following paragraphs Mr Rajan Sohal stated:
 - (1) At para.4: that both 31 Windsor Road and 17 and 19 Wycombe End were “owned jointly” by him and his wife.
 - (2) At para.7: that the 2019 Trust Deed was not a sham trust intended to defeat creditors, but combined 2 previous trust deeds dated 5 October 2012 and 17 August 2015.
 - (3) At para.8: that 31 Windsor Road was agreed to be purchased in “late 2012”.
 - (4) At para.8: that on 5 October 2015 a first deed of trust was executed “which recorded the terms of an agreement” between himself, his mother and his wife in relation to 31 Windsor Road.
 - (5) At para.10: that, in summary, his wife and he had taken the benefit of his mother’s assets listed in the 23 October 2012 Trust Deed in return for their giving his mother a charge worth £2.5 million over 31 Windsor Road.
 - (6) At para.11: that on 17 August 2015 a second deed of trust was executed which recorded an agreed split of the beneficial interest in 31 Windsor Road between his wife and himself in 75:25 shares.
 - (7) At para.12: that on 17 May 2019 a third deed of trust was executed which recorded the key points of the 23 October 2012 Trust Deed and the 17 August 2015 Trust Deed.
 - (8) At para.12: that he did not know why both his mother’s £2.5 million interest and the 75:25 split between his wife and himself of the remaining equity were not both set out in the earlier trust deeds. That they should have been, in order to reflect what was agreed between his mother, his wife and himself “prior to the purchase of 31 Windsor Road.”
 - (9) At para.13: that in July 2020 31 Windsor Road was advertised by Fine & Country in the Sunday Times and with a price of £4,950,000.
 - (10) At para.14: that 31 Windsor Road was being marketed additionally by Bovingdons at an asking price of £4,650,000.

- (11) At para.15, that he had no beneficial interest in 31 Windsor Road. It was subject to charges of £2,244,944.99 in favour of Onesavings Bank Plc, and £324,083.64 in favour of Castle Trust.
 - (12) At para.17, that whilst [although] 31 Windsor Road was on a short-term let, and he and his wife, 15 year old daughter and mother were staying with friends at 67 Windsor Road, 31 Windsor Road was the family home and they wished it to remain their family home unless it could be sold for at least £4.5 million.
31. Mr Rajan Sohal exhibited, amongst other things:
- (1) Copies of the three Deeds. In the case of the 17 August 2015 Deed, this was a copy of a copy certified to be a true copy of the original by B P Collins LLP. In the case of the 17th May 2019 Deed this was a copy of a copy certified to be a true copy of the original on 11 June 2019 by “Janine Leigh Heil – Solicitor”.
 - (2) Some material which went to the possible value of 31 Windsor Road.
 - (3) A statement from OneSavings Bank dated 13 October 2018 in respect of a mortgage account of Mr Rajan Sohal and Mrs Pooja Sohal for 31 Windsor Road. This gave the following information:
 - a. Interest only mortgage.
 - b. Loan start date 7 July 2017.
 - c. Original term 6 years.
 - d. Monthly payment £6,449.64.
 - e. Original amount borrowed: £2,155,867.00
 - f. Current interest rate 3.59%
 - g. Account balance as at 30 September 2018: £2,155,903.71.
 - h. Total cost to repay the loan: £2,244,944.99, which included an early repayment charge of £86,234.68 which would no longer apply after 8 July 2022.
 - (4) A redemption quotation from Castle Trust dated 2 March 2020. This gave, amongst other things, the following information:
 - a. The loan was a roll-up bridging loan with a start date of 10 November 2017.
 - b. The original amount of the loan was £250,000.
 - c. The current roll-up Bridge balance was £323,983.43.
 - (5) A short term tenancy agreement dated 24 August 2020 in respect of 31 Windsor Road. In this agreement Mrs Veena Sohal, Mr Rajan Sohal and Mrs Pooja Sohal are named as the landlords, and their address is given as 17-19 Wycombe End, Beaconsfield. The rent was stated to be £40,500 “all inclusive” for a fixed term of two months.
32. Leaving aside the non-contemporaneous nature of the OneSavings Bank statement and the Castle Trust redemption quotation, and also leaving aside the early repayment charge, as at October 2020 the aggregate amount secured on 31 Windsor Road in favour of OneSavings Bank and Castle Trust was: £2,155,903.71 + £324,083.64 = £2,479,987.35 or, if the early repayment charge of £86,234.68 was included: £2,566,222.03.
33. On 13th January 2021 Mr Sahota made a 2nd witness statement.
34. In paragraph 3 of his 2nd statement Mr Sahota stated that Mr Rajan Sohal had pleaded in his Defence in the QBD action that documents which had been signed whilst in his

possession and which purportedly bore the signature of Mrs Pooja Sohal, actually had not been signed by her. He exhibited a copy of that Defence and referred to paragraphs 9(c) and 13(c) of it. Those paragraphs of the Defence do not indicate that the documents were in the possession of Mr Rajan Sohal when signatures purporting to be those of Mr Pooja Sohal were applied to them. They do allege that the signatures are not those of Mrs Pooja Sohal and that they were not witnessed by the purported witness.

35. In paragraph 4 of his 2nd statement Mr Sahota stated that Mr Rajan Sohal, Mrs Pooja Sohal and Mrs Veena Sohal were being investigated in respect of a company called Property Master Construction; that they did not cooperate with the administrators of that company and there was an absence of any books and records. He exhibited a copy of the administrators report. This did indeed state at its paragraph 8 that the Joint Administrators had submitted a report on the conduct of the directors to the Department for Business Energy and Industrial Strategy and that due to the non-cooperation of the directors and the absence of any books and records, the Joint Administrators were not able to undertake a comprehensive review.
36. In paragraph 5 of his 2nd statement Mr Sahota stated that Mr Rajan Sohal was “apparently” under investigation with regard to a company of his called Acacia Securities Limited. The exhibited liquidator’s report confirmed that a confidential report had been submitted by the liquidator to the Secretary of State which included matters which might indicate that the conduct of any past or present director would make them unfit to be concerned with the management of the company.
37. In paragraph 6 of his 2nd statement Mr Sahota stated that he had made the above points because they were “relevant to the degree of scepticism that the Court should have about the various documents, and in particular the trust deeds, submitted by [Mr Rajan Sohal]”. In my judgment these matters do not go to any of the issues in this case. Nor do they go to Mr Rajan Sohal’s credibility. Nevertheless I allowed them to be dealt with in cross-examination and re-examination of Mr Sahota and Mr Rajan Sohal. That process confirmed my view that these matters were irrelevant, except for the purpose of showing that by the end of 2019 those two companies with which Mr Rajan Sohal was involved were in financial difficulty.
38. In paragraphs 8 to 11 of his 2nd statement Mr Sahota challenged Mr Rajan Sohal’s evidence as to the value of 31 Windsor Road. Mr Sahota produced appraisals and drive by valuations from Hilton King & Locke and Winkworths valuing the property in the range £2.6 million to £3.25 million.
39. In paragraphs 13 to 17 of his 2nd statement Mr Sahota raises “suspicions” and makes various comments in relation to the 2012 and 2015 Deeds. In terms of evidence he says that no restriction has ever been registered against the property in respect of the Deeds.
40. In paragraphs 18 and 19 of his 2nd statement Mr Sahota says that the signature purporting to be that of Anita Sehgal as witness to the execution of the 2015 Deed does not belong to her; it is not even close. Mr Sahota exhibited a copy of a Companies House Form 288a on which Anita Sehgal’s signature appeared to be completely different.

41. In paragraph 20 of his 2nd statement Mr Sahota says that his formal letter before action in respect of the QBD action was dated 11 March 2019.
42. In paragraph 23 of his 2nd statement Mr Sahota raises a point which was also dealt with in cross-examination. That is that in a signed statement in the QBD proceedings dated 11 May 2020 Mr Rajan Sohal stated that he had offered a repayment plan by email to Mr Sahota's lawyers with security offered on a property in Slough which, he said was "solely owned by me". A copy of the email is exhibited. It is from Mr Rajan Sohal and dated 17 March 2020. It refers to 58 London Road, Slough and states:
"You can have a charge or an option agreement to sell within 12 months as protection. This is owned by me entirely 100 percent. Worth £1 - £1.1mill – Debt £650k."
43. In paragraphs 25 and 26 of his 2nd statement Mr Sahota raises questions about the loan to Mrs Dogra secured on 58 London Road.
44. In paragraphs 30 to 37 of his 2nd statement Mr Sahota raises questions about what Mr Rajan Sohal had said was a loan to him from Mr Rajesh Kanda, secured on the 17 and 19 Wycombe End property. Mr Sahota exhibited a copy of a facility agreement dated 2 January 2019 between (1) Mr Kanda and (2) Mr Rajan Sohal and Mrs Pooja Sohal. At paragraph 38 of his 2nd statement Mr Sahota says that there is no similarity between Mrs Pooja Sohal's signature as it appears on that document and her signature as it appears on the three Deeds.
45. By an order dated 19 January 2021 Master Kaye ordered, amongst other things, that:
 - (1) Mrs Pooja Sohal and Mrs Veena Sohal be added as Defendants to the proceedings.
 - (2) Mr Rajan Sohal do provide inspection to Mr Sahota's solicitor of the originals of the three Deeds by 9 February 2021.
 - (3) Mr Rajan Sohal do file and serve any evidence in reply to Mr Sahota's statement of 13 January 2021 concerning the validity of the three Deeds by 9 February 2021.
 - (4) Mr Rajan Sohal do file and serve up to date mortgage statements concerning 31 Windsor Road and from One Savings Bank and Castle Trust by 9 February 2021.
 - (5) Mr Rajan Sohal do file and serve any documentation showing whether 58 London Road has had an LPA receiver appointed and whether it has been sold and of so at what price by 2 February 2021.
 - (6) Mr Rajan Sohal do file an up to date mortgage statement from Together Commercial Finance concerning 58 London Road by 9 February 2021.
 - (7) Mr Rajan Sohal do file and serve by 9 February 2021 evidence in reply concerning the loans that he allegedly received from Mr Kanda which are secured by a charge over 17 and 19 Wycombe End. That evidence to include bank statements showing the alleged 5 loans from Mr Kanda and showing that the money came from Mr Kanda.
 - (8) Mr Rajan Sohal do file and serve by 9 February 2021 an up-to-date mortgage statement for 17 and 19 Wycombe End showing the current mortgage to the Halifax.
46. Ms Anita Sohal made a witness statement dated 8 February 2021 on behalf of Mr Rajan Sohal. In this statement she stated, amongst other things, that:

- (1) She was Mr Rajan Sohal's sister.
 - (2) Her signature on the Companies House Form 288a a copy of which was exhibited to Mr Sahota's statement, was her usual signature.
 - (3) On the 2015 Deed she "used a simple version" of her signature, in which her first name and surname were not joined together and the words were standing more upright, due to health issues she was experiencing that day.
 - (4) She had suffered from idiopathic urticaria since May 2012 and she recalled that her hands in general and her palms in particular were swollen when she signed the deed.
47. Mr Rajesh Kanda made a witness statement dated 13 February 2021. In this statement he stated, amongst other things, that:
- (1) He was a bona fide lender to Mr Rajan Sohal and Mrs Pooja Sohal.
 - (2) He had an outstanding charge of £250,000 capital and £150,000 interest over 17 and 19 Wycombe End.
 - (3) He exhibited a handwritten document that showed the dates, amounts and payee bank accounts in relation to the payments made to Mr Rajan Sohal or his companies.
 - (4) He exhibited various bank accounts and three bank transfer receipts evidencing the making of the payments. Also a declaration of gift letter from his parents.
48. Mr Rajan Sohal made a 2nd witness statement dated 26 April 2021. In this statement he sought to explain his failures to comply with the earlier orders to provide the originals of the 2015 and 2019 Deeds and the One Savings Bank and Halifax mortgage statements. In paragraph 4 of this statement he says:
- "The original deeds of trust are in a file. I have searched for that file in all the places where I store things except for the garage at 31 Windsor Road and the room above it (where I know there are boxed files), so I assume that this is where it is. I have been unable to gain access to 31 Windsor Road, however, because the property is let to famous You Tubers who film a lot and have a history of poor cooperation when it comes to providing access, including multiple cancellations."
49. By an order dated 27 April 2021 Master Kaye ordered, amongst other things that:
- (1) The time for Mr Rajan Sohal to provide up to date mortgage statements for (i) 31 Windsor Road from One Savings Bank; (ii) 58 London Road, from Together Commercial Finance; and (iii) 17 and 19 Wycombe End from Halifax, be extended to 8 May 2021.
 - (2) The time for Mr Rajan Sohal to provide the originals of the three Deeds for inspection be extended to 2 June 2021.
50. By an order dated 25 October 2021 Master Kaye, amongst other things:
- (1) Noted the making of the bankruptcy order against Mr Rajan Sohal on 27 September 2021.
 - (2) Ordered Mrs Veena Sohal and Mrs Pooja Sohal to file and serve any acknowledgements of service and witness statements by 4pm on 8 November 2021.
 - (3) Ordered Mr Sahota to file and serve any witness statements in response to the evidence filed by the Defendants by 4pm on 22 November 2021.

51. On 17 December 2021 Mr Rajan Sohal made another witness statement. This was filed on behalf of Mrs Veena Sohal and Mrs Pooja Sohal. This statement gives some more detail as to the purchase and dealings with 31 Windsor Road. In it Mr Rajan Sohal states that:
- (1) He and Mrs Pooja Sohal exchanged contracts for the purchase of 31 Windsor Road in September 2012 at a purchase price of £1,200,000.
 - (2) His intention was to knock down the then existing house and rebuild with a 10,000 sq ft home.
 - (3) The purchase and the redevelopment were funded with short term finance from Bridgeco Limited and approximately £1,300,000 of the £2.5 million which he received over the years from his mother.
 - (4) He received the £2.5 million from his mother in tranches on the sale or refinancing of the properties as set out in para.9 of the statement as and when they were sold or refinanced. This occurred from around 1997 onwards.
 - (5) The £2,500,000 was raised from Mrs Veena Sohal on the sale of the following properties:
 - (a) Held in his and her joint names:
 - a. 231 Rochford Gardens, Slough
 - b. 26 Cedar Close, Iver Heath
 - (b) Held in her sole name:
 - i. 19 Morton Close, Uxbridge
 - ii. 2 DLF Phase 1 properties in India
 - iii. 11a Devonshire Road, Chiswick
 - iv. Bank of Baroda bank account

Save for 11a Devonshire Road, which was refinanced and the Bank of Baroda Bank account which was redeemed.
 - (6) On 5 October 2012, after exchange of contracts and before completion of the purchase of 31 Windsor Road, he recorded the arrangement with his mother and wife in the 5 October 2012 Deed.
 - (7) To the best of his knowledge the total cost of purchase was £1,270,000 comprising the price (£1,200,000), SDLT (£60,000) and legal fees and other disbursements or costs (£10,000) which was funded by £500,000 net loan advance from Bridgeco Ltd and £770,000 by loan from Mrs Veena Sohal.
 - (8) Of the £2,500,000 “investment” from his mother, approximately £770,000 was used towards the purchase of 31 Windsor Road and a further £530,000 went towards the redevelopment of the property.
 - (9) The remaining £1,200,000 was used by him to purchase other investment properties.
 - (10) In paragraph 15 that “all of the documents” that he was referring to or to which he had been referred for the purpose of providing the evidence set out in the statement were “listed below”. There was only one document “listed below”, which was the 2012 Deed.
52. On 17 December 2021 Mrs Pooja Sohal made a second witness statement. Her first witness statement is not in the hearing bundle. In Mrs Pooja Sohal’s second witness statement she states, amongst other things that:
- (1) In 2012 she and Mr Rajan Sohal were still living at 26 Cedar Close with Mrs Veena Sohal.

- (2) She, Mr Rajan Sohal and Mrs Veena Sohal all reached agreement in 2012 that Mrs Veena Sohal would provide a sum of money to Mr Rajan Sohal and her to enable them to purchase and to extend and develop 31 Windsor Road.
- (3) The sum Mr Rajan Sohal said they needed for the purchase and to fund his other business interests was £2.5 million, and it was to be raised by refinancing or sale of various properties and by use of some monies in the Bank of Baroda in India.
- (4) In paragraph 13:

“In order to formalise the arrangement, and because Veena wanted to secure her interest, Rajan had a trust deed prepared – the 2012 Deed. He presented Veena and I with this document. I don’t know whether it was drafted by Rajan or by a third party but Rajan arranged for us all to sign it. The date on the 2012 Deed – 5 October 2012 – is the date it was actually signed, and Rajan, Veena and I were all together when it was signed on that day. I remember Kiran Asahan being there too, and witnessing us signing it. I cannot recall where we were when we signed it, although I think it was 26 Cedar Close.”

- (5) In paragraph 17 she says that she understands the reference in the 2012 Deed to Veena’s “legal requirement of age” to be a reference to the fact that she was aged in her mid-sixties at the time, and hence would not herself be someone to whom a mortgage lender would loan money. She goes on to say:

“For that reason, given that Rajan and I thought that we would likely need to borrow against the property both at the time of purchase and in the future we agreed that although Veena would be entitled in due course to the return of the £2.5 million on her investment in accordance with the 2012 Deed, the purchase would be only in the names of Rajan and me, without mentioning Veena.”

- (6) She never contributed to any of the properties which had been owned by Mr Rajan Sohal, or co-owned by Mr Rajan Sohal with Mrs Veena Sohal.
- (7) In paragraph 21:

“... My solicitor is making various enquiries of Rajan on my behalf as to obtaining the conveyancing file from 2012 and other relevant documents.”

- (8) In paragraph 22:

“The 2015 Deed was prepared by BP Collins Solicitors on instructions from Rajan in order to make it easier for us to borrow further on 31 Windsor Road. Rajan told me that as I was younger my having the greater share in the 2015 Deed would mean that a mortgage lender would agree to loan us a larger sum of money than they would do otherwise. I didn’t think too hard about signing this document, and I responded “fine” and just signed it. He said to me at the time that “the money belonged to his mother” and that this was just “a paper in case we need to do the house up or we need a loan”. Behind the scenes his mother had contributed to it, and I said fine, and that I wasn’t going to take the equity anywhere. Rajan never said to me that he was going to sell the property.”

- (9) She does not know why there is no reference in the 2015 Deed to Mrs Veena Sohal’s interest in 31 Windsor Road.

- (10) It is her signature on the 2015 Deed, and it was witnessed by Anita Sehgal.
- (11) She cannot recall where the 2015 Deed was signed.
- (12) She signed the 2019 Deed along with Ranjit Kaur on the date stated on its face.
- (13) She signed the 2019 Deed at the premises of GX Beauty Lounge.
- (14) Mr Rajan Sohal explained the meaning of and translated the 2019 Deed to Mrs Veena Sohal, as Mrs Veena Sohal's English is quite poor.
- (15) Mr Rajan Sohal told her she should sign the 2019 Deed in order to protect his mother's interest. He did not say why.
- (16) She did not find out until 2020 that Mr Rajan Sohal's projects had failed and that he was in financial distress.

53. On 17 December 2021 Mrs Veena Sohal made a second witness statement. Her first witness statement is not in the hearing bundle. There is a reference to it as having been made on 9 February 2021 at paragraph 36 of her second statement. The 17 December 2021 statement is in Punjabi, with an English translation. Both are "e-signed" "Veena Sohal". In the witness box Mrs Veena Sohal confirmed that the Punjabi version was her statement. There is a signed certificate as to the accuracy of the translation into English. No point was taken at the hearing as to the accuracy of the translation. In the statement Mrs Veena Sohal says, amongst other things:

- (1) In paragraph 5: that the statement was prepared following a face-to-face interview which took place on 24 November 2021 with her solicitor and counsel, each of whom asked her questions. She responded to those questions (through an interpreter).
- (2) In paragraph 6: that although she had been provided with the documents listed in her exhibit VS1, her ability to speak, read and comprehend the English language was limited, and she therefore had relied upon her solicitor and counsel to draw the most important documents to her attention.
- (3) In paragraph 7: that her daughter, Anita Sehgal was also present on 24 November 2021 when she (Mrs Veena Sohal) was interviewed by counsel. She says Anita Sehgal was present in order to translate questions asked of her into Punjabi, and in order to translate her responses back into English. She says that although Anita Sehgal was present the evidence in the statement was her evidence and not that of Anita.
- (4) In paragraph 8 of the statement Mrs Veena Sohal explains that the statement had been drafted initially in English, then translated into Punjabi. However, recites the statement, as she has trouble reading and writing in Punjabi, a translator had read the statement in Punjabi to her, paragraph by paragraph, and with the assistance of the interpreter she had made any amendments which needed to be made.
- (5) She was born in India, but moved to the UK in 1967. She married her late husband, Avtar Singh Sohal, on 20 December 1966.
- (6) Mr Avtar Singh Sohal died on 10 August 1987 at the age of 44. He had not made a will and died intestate.
- (7) In the weeks leading up to the 2012 Deed being signed she remembers talking to her daughter, Anita Sehgal, about it. She did not remember the conversations in any detail, but did tell her that Mr Rajan Sohal and Mrs Pooja Sohal "and my grandson / granddaughter" were wanting to move out. The property they wanted to move out of was 26 Cedar Close, Iver.
- (8) At paragraph 12 she sets out what she could remember about the properties referred to in the 2012 Deed to the following effect:

- a. 231 Rochford Gardens, Slough was a property in her sole name owned solely by her.
 - b. 26 Cedar Close, Iver Heath was held jointly by her and Mr Rajan Sohal, but the monies used to purchase the property were hers. This was the property in which she lived, along with Mr Rajan Sohal, Mrs Pooja Sohal and their young child, then aged about 7.
 - c. 19 Morton Close, Uxbridge. She says this was purchased after her husband died. She says she cannot remember in whose name this property was without having sight of the relevant paperwork. She also says that this property was purchased in her sole name in and around the early 2000's.
 - d. 11a Devonshire Road, Chiswick. She says that this was a property owned jointly by her husband and her. She also says that she cannot recall its ownership without seeing the paperwork.
 - e. 2 DLF Phase 1 properties in India. She says these had been in the name of her late husband before he died.
 - f. The Bank of Baroda deposits were monies belonging either to her husband or to her. She cannot recall the detail without seeing the paperwork.
- (9) At paragraph 13 she says that all the properties were sold for the benefit of Mr Rajan Sohal's business interests except for 11a Devonshire Road. There was no mortgage on that property and Mr Rajan Sohal "mortgaged this property to the value of £1.1 million over the period of time".
- (10) At the time of Mr Avtar Singh Sohal's death she was not aware of the full extent of his assets because he had not discussed them all with her.
- (11) At the time of Mr Avtar Singh Sohal's death it was customary in her Sikh tradition for her son to administer the family finances. So far as she could recall Mr Rajan Sohal took charge of the administration of her husband's estate. She could not recall much else about the administration of her husband's estate. Therefore she "didn't and don't have paperwork for 11a Devonshire Road, 2 DLF Phase 1 or the Bank of Baroda deposits."
- (12) She understood from Anita Sehgal that she (Anita) gave whatever share of Mr Avtar Singh Sohal's assets that she had received upon his death to her (Mrs Veena Sohal) in the few years after he died.
- (13) At paragraph 17 she says:
 "In the limited time I have had to prepare this statement I have been unable to obtain paperwork confirming the ownership or value in 2012 of the above assets, or giving further detail about them, such as what if any borrowing was secured against the properties, and what the extent of the further borrowing envisaged in the 2012 Deed was with respect to each such property. I can say however that I provided funds for the purchase of Windsor Road, which were raised as indicated in the 2012 Deed from refinancing of property, redemption of bank deposits and sale of properties and that these funds were not a gift: it was my money, and the agreement was that I would eventually receive back the sum of £2.5 million, as Rajan and Pooja were intending to develop, as the 2012 Deed says, a "brand new 10,000 sq ft home". Monies were used for his business interests and for the purchase and development of 31 Windsor Road."
- (14) Similarly at paragraph 18 she says:
 "In the limited time I have had to prepare this statement I have been unable to obtain paperwork confirming the exact sums of money which I made available

- to Rajan and Pooja to invest in 31 Windsor Road, and I am trying with the assistance of my solicitor to obtain information about this, by writing to my bank and by making other enquiries.”
- (15) At paragraph 19 she says in relation to the phrase “Mrs Veena Sohal cannot buy, remortgage or sell due to the legal requirement of age” what she thinks it means. That evidence would be inadmissible; but in substance some of what she says is relevant background to the interpretation of that phrase. She says that in October 2012 she was aged 65 and was accordingly not someone to whom a lender would lend. She was retired at the time and receiving rental income from 11a Devonshire Road. That was subsequently reduced after Mr Rajan Sohal had refinanced that property. She continued:
 “My understanding at the time was that it would not have been possible for me to be named as a co-purchaser of 31 Windsor Road on the documentation as it would cause problems with lenders. My understanding was Rajan and Pooja would not have been able to borrow against 31 Windsor Road at any point if I had been named as a co-purchaser.”
- (16) After explaining the circumstances of the signing of the 2012 Deed and why her son rather than she would have any paperwork, she says at paragraph 25:
 “Since the death of Avtar, I have always trusted my son Rajan to manage my finances and so I also trusted him with the investment of the money which I was making available to him in accordance with the agreement in 2012 which is recorded in the 2012 Deed. He assured me that he would not treat me badly and that he would provide the promised return, being the “£2.5 million equitable interest/charge of 31 Windsor Road” referred to in the 2012 Deed when the property would be sold in the future. I have suffered detriment because I have not been able to use the monies I provided in order to invest or buy other assets since I provided it to Rajan and Pooja to be used in the purchase of 31 Windsor Road. I am very keen to realise the promised return on my investment.”
- (17) In relation to the 2015 Deed she understood that the reason there was no reference in it to her initial investment was because it would cause problems with any mortgage lender.
- (18) The 2019 Deed was signed by all three of herself, Mr Rajan Sohal and Mrs Pooja Sohal on the date stated on its face and in the presence of Ranjit Kaur. She says the 2019 Deed was translated and explained to her by Mr Rajan Sohal and Mrs Pooja Sohal.
- (19) She lived at 31 Windsor Road for 3 years from July 2017 to September 2020.
54. On 26 January 2022 Mr Sahota made a 3rd witness statement. In this statement amongst other things:
- (1) He states that in his contracts with Mr Rajan Sohal Mr Rajan Sohal always said that he had assets of approximately £4 million and those assets were always said to include 31 Windsor Road. He exhibited a screenshot, presumably intended to be of part of one of those contracts which states:
 “We warrant that we have net assets of approximately £4 million. eg: 31 Windsor Road, Gerrards Cross being developed -GDV will be £3.5 million, debt will be £1 million.”
- (2) He makes various allegations and exhibits various documents in relation to:
- a. Acacia Securities Ltd.
 - b. The transfer of 26 Cedar Close “into a Jersey trust”.

- c. 26 Cedar Close having been acquired with a buy to let mortgage.
 - d. The timing of Mrs Pooja Sohal's knowledge of Mr Rajan Sohal's financial distress with reference to:
 - a. Proceedings brought against Mr Rajan Sohal, PFS Investments Ltd, Parras Investments Ltd and Mrs Pooja Sohal by "The Address group Limited" and Lina Pankhania filed on 13 December 2019.
 - b. GX Constructions Ltd.
 - e. Three companies whose registered offices were at the address of Mrs Pooja Sohal's business.
 - f. A legal charge granted on 13 February 2019 by Mrs Veena Sohal and Mrs Pooja Sohal in favour of Together Commercial Finance Limited over 11a Devonshire Road.
 - g. Property Master Construction Limited.
 - h. A facility agreement dated 2 January 2019 between Mr Rajesh Kanda and Mr Rajan Sohal and Mrs Pooja Sohal and a charge over 17 and 19 Wycombe End in favour of Mr Rajesh Kanda.
 - i. He alleges that when he first met Mr Rajan Sohal he told his friend Arvi Chana his father left him 11a Devonshire Road, Chiswick and it was mortgage free.
 - j. A LinkedIn page showing Mr Rajan Sohal as an ACA, when in fact he was an ACCA.
- (3) A suggestion that the Deeds may have been entered into to defraud creditors.
- (4) Refers to a statement of Mr Rajan Sohal dated 9 June 2020 and a letter from his solicitors dated 4 June 2020 in which the 2019 Deed is relied upon, but not the 2012 or 2015 Deeds.
55. On 27 January 2022 Master Kaye made an order in which, amongst other things, she ordered that:
- (1) Mrs Pooja Sohal and Mrs Veena Sohal have permission to file and serve further witness statements by 11 March 2022 in response to Mr Sahota's evidence of 26 January 2022.
 - (2) The Defendants must by 4pm on 10 February 2022 provide inspection of the originals of the three Deeds.
 - (3) The Defendants must by 4pm on 10 February 2022 provide up to date mortgage statements for 31 Windsor Road, 58 London Road and 17 and 19 Wycombe End.
 - (4) If the documents ordered to be provided are not produced by 4pm on 10 February 2022 or a witness statement explaining why they cannot be produced has not been filed and served by 4pm on 10 February 2022, then the Defendants are debarred from relying on any of those documents at trial.
 - (5) Permission to Mr Sahota to file and serve any evidence in response by 1 April 2022.
 - (6) The issue as to the validity and effect of the three Deeds be set down for trial.
 - (7) The order be served on all the Defendants as well as on the solicitors for the trustee in bankruptcy of Mr Rajan Sohal.
56. The originals of the 2012 and 2017 Deeds were provided in accordance with the order of 27 January 2022. The original of the 2015 Deed has not been forthcoming. B P Collins say they sent the original of the 2015 Deed to Mr Rajan Sohal and Mrs Pooja

Sohal on 27 August 2015. A copy of the 2015 Deed certified by BP Collins is in evidence.

57. Mrs Pooja Sohal made a 3rd witness statement on 21 March 2022. In this statement she states, amongst other things that:
- (1) She did not have any knowledge of or involvement in the business of Acacia Securities Ltd.
 - (2) At the time of execution of the 2012 Deed she had no knowledge of any costs orders made against Mr Rajan Sohal.
 - (3) In relation to a claim brought against Mr Rajan Sohal, her, PFS Investments Limited and Parras Investments Limited: she had been appointed as a director of Parras Investments Limited by Mr Rajan Sohal in 2012 in order to help the company to obtain finance and refinance. As she recalled, the dispute related to some of Mr Rajan Sohal's business projects in Wales, although she was not involved with those projects. She thought she first learned about this claim in around December 2019.
 - (4) In respect of 11a Devonshire Road, her understanding was that she did not have any interest in the property. She thought she was listed as a borrower in relation to Together Commercial Finance Limited because Mrs Veena Sohal because of her age would not have been able to borrow on her own against the property.
 - (5) As regards GX Constructions Limited, she says that she was the sole shareholder and director. She says the company "did not really actively trade as a business and I did not pursue any business with it."
 - (6) As regards the three companies whose registered offices were at the address where she worked, she said she was not a director or shareholder of any of those companies; did not have any involvement with them and could not express a view on why they registered their addresses at her business address.
 - (7) As regards Property Master Construction, she says she was appointed a director of that company in January 2019 at Mr Rajan Sohal's suggestion. She says he told her that his and Mrs Veena Sohal's appointment as directors would help that company to refinance because of problems with his credit. She says she did not know anything about the "dodgy transactions" which Mr Sahota referred to.
 - (8) As regards the facility agreement dated January 2019 which led to Mr Kanda obtaining a charge over 17 and 19 Wycombe End, she says she believes this was the second charge that Mr Kanda obtained in relation to that property, and that she signed that document because she was one of the joint proprietors of that property.
58. Mrs Veena Sohal made a 3rd witness statement on 21 March 2022. In this statement she states, amongst other things that:
- (1) She did not have any knowledge of or involvement in the business of Acacia Securities Ltd.
 - (2) The sum of £2.5 million was included in the 2012 Deed because it represented the value of the assets listed in the 2012 Deed. The £2.5 million was to come from either the sale or refinance of the properties listed in the 2012 Deed.

Land Registry documents

59. A selection of Land Registry entries for some of the properties were in the hearing bundle:
- (1) 25 July 2020 Land Registry Entries for 31 Windsor Road. These show:

- a. Mr Rajan Sohal and Mrs Pooja Sohal as the registered proprietors, they having been registered as such on 17 January 2013, when the price stated to have been paid was £1,200,000.
 - b. A beneficial tenants in common restriction entered on 17 January 2013.
 - c. A restriction and a registered charge entered on 14 July 2017 in respect of a charge dated 7 July 2017 in favour of One Savings Bank Plc.
 - d. A restriction and a registered charge entered on 22 January 2018 in respect of a charge dated 10 November 2017 in favour of Castle Trust Capital Plc.
 - e. Restrictions in respect of Mr Sahota's charging orders entered on 16 April and 19 June 2020.
- (2) 10 August 2019 Land Registry Entries for 31 Windsor Road. These show the same as the 25 July 2020 version, except that they also show:
- a. A restriction entered on 25 June 2019 in relation to the Deeds dated 5 October 2012 and 17 May 2019.
- (3) 19 June 2020 Land Registry Entries for 31 Windsor Road. These show the same as the 25 July 2020 version, with no restriction present in relation to the Deeds dated 5 October 2012 and 17 May 2019.
- (4) 13 July 2020 Land Registry Entries for 58 London Road. These show:
- a. Mr Rajan Sohal as the registered proprietor, he having been entered as such on 14 June 2018, when the value of the land in the title and the land in title BK205402 was stated to be £725,000.
 - b. A restriction and charge dated 2 April 2019 entered on 14 May 2019 in favour of Together Commercial Finance Limited.
 - c. A restriction entered on 11 September 2019 in favour of Kamli Rani Dogra.
 - d. A restriction entered on 19 June 2020 in favour of Mr Sahota in respect of his charging order of 4 June 2020.
- (5) 13 July 2020 Land Registry Entries for BK205402, being land on the North West side of 58 London Road. These show:
- a. Mr Rajan Sohal as the registered proprietor, he having been entered as such on 14 June 2018.
 - b. A restriction and charge dated 2 April 2019 entered on 14 May 2019 in favour of Together Commercial Finance Limited.
 - c. A restriction entered on 11 September 2019 in favour of Kamli Rani Dogra.
 - d. A restriction entered on 19 June 2020 in favour of Mr Sahota in respect of his charging order of 4 June 2020.
- (6) 13 July 2020 Land Registry Entries for 17 and 18 Wycombe End. These show:
- a. Mr Rajan Sohal and Mrs Pooja Sohal as the registered proprietors, they having been registered as such on 14 July 2017 when the price stated to have been paid was £420,000.
 - b. A registered charge dated 7 July 2017, registered on 14 July 2-17 in favour of the Bank of Scotland Plc.
 - c. A restriction and a registered charge entered on 9 July 2019 in respect of a charge dated 17 June 2019 in favour of Mr Rajesh Kanda.
- (7) 27 January 2021 Land Registry Entries for 11a Devonshire Road show:
- a. Mrs Veena Sohal as the proprietor, she having been registered as such on 2 August 1990.

- b. A restriction and charge entered on the register on 18 February 2019 in respect of a charge dated 13 February 2019 in favour of Together Commercial Finance Limited.
 - c. Notice of a lease dated 31 May 2012, commencing on 10 November 2010 for a term of 10 years of the “Ground Floor Shop”.
- (8) A screenshot of part of the Land Registry Entries for Cedar Close shows:
 - a. An entry dated 23 October 2012 showing Panmor Limited of Jersey as proprietor, with the price stated to have been paid on 16 October 2012 as £900,000.
- 60. A copy of a Land Registry Form RX3 signed by Axiom Stone Solicitors on 18 March 2020, on its face on behalf of Mr Rajan Sohal and Mrs Pooja Sohal, sought in respect of 31 Windsor Road the cancellation of the restriction entered on 25 June 2019 in favour of Mrs Veena Sohal. The reason given in the Form for the removal is that there was no requirement for the registration of the restriction in the Deeds.
- 61. Copies of the TR1 dated 10 January 2013 whereby 31 Windsor Road was transferred by Jarvis Homes Limited to Mr Rajan Sohal and Mrs Pooja Sohal. One copy is signed by Jarvis Homes Limited by its authorised officers. The other is signed by Mr Rajan Sohal and Mrs Pooja Sohal. Great weight was sought to be placed upon this document by Mr Panton on behalf of Mr Sahota, in particular the statement in its Box 10 which was in the following terms:
 - “Declaration of Trust. The transferee is more than one person and
 - ...
 - They are to hold the property on trust for themselves in accordance with the provisions of a Declaration of Trust of even date.”
- 62. The copy TR1 shows that the solicitors then acting for Mr Rajan Sohal and Mrs Pooja Sohal were Hibberts LLP of Nantwich, Cheshire.
- 63. No declaration of trust of “even date” with the TR1 has been forthcoming.

The live witness evidence

- 64. I heard live evidence from Mr Sahota, Ms Anita Sehgal, Mrs Pooja Sohal, Mrs Veena Sohal and Mr Rajan Sohal.
- 65. Mr Sahota clearly felt hard done by in that he had invested money with or at the behest of Mr Rajan Sohal and had as yet recovered little or nothing of it or in respect of it. In his written evidence and orally he and his counsel made many allegations against Mr Rajan Sohal, Mrs Pooja Sohal, Mrs Veena Sohal; especially against Mr Rajan Sohal. Many of these were based on misunderstandings or speculation. He did say, incorrectly, that the Deeds had never been registered against 31 Windsor Road, but that was before he had discovered the temporary registration of the restriction in respect of the 2012 and 2019 Deeds in favour of Mrs Veena Sohal. Generally, I am satisfied that as regards Mr Sahota’s direct evidence of fact he was a witness of truth, but that care needs to be taken to distinguish between statements of facts which he actually knew and statements written as if they were statements of fact which he knew, but which were based on misunderstandings or his interpretation or extrapolation from a particular fact. Accordingly I approach his apparent statements of fact with considerable caution,

except where it is clear that they do indeed derive from his own knowledge or where they are supported by documentary evidence.

66. Ms Anita Sehgal only gave written and oral evidence as to her signature on the 2015 Deed. This in itself was surprising because, as set out above, it appears from Mrs Veena Sohal's 2nd witness statement that not only had Anita Sehgal translated and explained it to Mrs Veena Sohal, but also that in the weeks leading up to the 2012 Deed being signed Mrs Veena Sohal said that she remembered talking to her daughter, Anita Sehgal, about it, that is to say the 2012 Deed. Given the suggestion made by Mr Sahota that the 2012 Deed might have been backdated, I would have expected to see and hear some evidence from Anita Sehgal as to the discussions which Mrs Veena Sohal had with her in 2012 about the 2012 Deed. Similarly with Mrs Veena Sohal's written statement that she understood from Anita Sehgal that she (Anita Sehgal) gave whatever share of Mr Avtar Singh Sohal's assets that she had received upon his death to her (Mrs Veena Sohal) in the few years after he died. I would have expected to see corroborative evidence as to that from Ms Anita Sehgal. However, she was not cross-examined about those matters; only about her signatures as witness to the execution of the 2015 Deed by Mr Rajan Sohal and Mrs Pooja Sohal as to which, as I explain below, I find that she was not telling the truth.
67. Mrs Pooja Sohal was a very nervous witness. Many of her answers to questions in cross-examination were to the effect that she did not remember or were statements to the effect that she relied upon what Mr Rajan Sohal had told her. I did not find her evidence convincing except where it was corroborated by documents or concerned points of a substantially uncontentious nature.
68. Mr Rajan Sohal gave his evidence confidently, but there were gaps in it and on three points I am satisfied, as explained below, that Mr Panton established that he had not been telling the truth. Those points were:
 - (1) Mr Rajan Sohal's statements about 58 London Road.
 - (2) The signing of the 2012 Deed by Anita Sehgal as witness to its execution.
 - (3) The reasons for giving Mrs Pooja Sohal a greater than 50% beneficial interest in 31 Windsor Road.
69. Other statements by Mr Rajan Sohal, for example the statement in respect of 31 Windsor Road in an agreement dated 23 February 2017 between (1) Mr Rajan Sohal and Mrs Pooja Sohal, (2) Avani Developments Ltd and (3) Mr Sahota which was part of the subject matter of the QBD action that "GDV will be £3.5 million, debt will be £1 million" show Mr Rajan Sohal and, in this example, Mrs Pooja Sohal at least sailing very close to the wind in terms of accuracy or forecasts. This statement was made only some 5 months before £2,155,867.00 was borrowed from OneSavings Bank on the security of 31 Windsor Road, and fails to take account of Mrs Veena Sohal's charge for £2.5 million. The best that can be said about it is that it showed great over optimism as to the amount of debt required to purchase and develop 31 Windsor Road.
70. On the other hand, many of the allegations as to untruths or bad conduct made by Mr Sahota against Mr Rajan Sohal and Mrs Pooja Sohal were speculative or unsubstantiated or irrelevant or related to collateral and peripheral points as to which Mr Rajan Sohal's answers in cross-examination were final.

71. Except in relation to (i) the signing by Anita Sehgal of the 2015 Deed; (ii) the reasons for giving Mrs Pooja Sohal a greater than 50% beneficial interest in 31 Windsor Road; and (iii) the failure to obtain any relevant bank statements, insofar as Mrs Veena Sohal gave evidence of fact I accept her evidence.
72. My assessment of the Defendants and their evidence is negatively affected by the lack of many of the documents which would corroborate, or otherwise, their case as to the dealings with the properties and the raising and spending of money on them or other corroborating evidence in that regard, with little or in nothing in the way of good excuse being given for this failure. I would have expected to see:
- (1) Evidence from Mr Kiran Asahan, the witness to the execution of the 2012 Deed, or at least an explanation as to why he was not giving evidence.
 - (2) A copy of Hibberts' file in relation to the purchase of 31 Windsor Road, and an explanation from it or from them as to why there was a reference to a Deed of even date in Box 10 of the TR1. I appreciate that this file or substantial parts of it might be covered by legal professional privilege; but it would have been open to Mr Rajan Sohal and Mrs Pooja Sohal to waive that privilege.
 - (3) A copy of the instructions given to BP Collins in respect of the preparation of the 2015 Deed, possibly also with a copy of their file in that regard.
 - (4) A copy of the instructions given to the solicitors who prepared the 2019 Deed possibly also with a copy of their file in that regard.
 - (5) Other evidence and material as I mention below.
73. Both Mrs Pooja Sohal and Mrs Veena Sohal say in their statements of 17 December 2021 that their solicitor was making enquiries as to obtaining the conveyancing file from 2012 and other relevant documents. Mrs Veena Sohal says in her statement of 17 December 2021 that "in the limited time" she has had to prepare her statement she has been able to obtain various pieces of paperwork. I was not taken to the details of service or alleged service of the order joining Mrs Pooja Sohal and Mrs Veena Sohal and other court documents on them. There appears to have been a dispute about that. However, Mr Rajan Sohal had been a party from the outset, and given Mrs Pooja Sohal's and Mrs Veena Sohal's professed reliance on him, I consider that the practical starting time for getting the relevant paperwork was probably considerably before Master Kaye's Order of 25 October 2021 which required their witness statements by 8 November 2021. 25 October to 8 November 2021 was a short time, but in the event they did not make their statements until 17 December 2021, nearly 2 months after the order of 25 October, and even then they still had their solicitor making enquiries as to further documents. If further clearly relevant documents had been found or had wished to be made use of pursuant to those enquiries, an application could have been made for their admission. Be that as it may, Mrs Pooja Sohal and Mrs Veena Sohal made further statements on 21 March 2022, but these did not exhibit any documents.
74. Mr Rajan Sohal's explanations as to not having or being able to obtain documents were not very satisfactory. They disclosed either (i) a failure to realise the importance of obtaining the documents; or (ii) a genuine inability to obtain the documents through pressure of other events, such as his bankruptcy; or (iii) a concern that the documents would not or might not support the Defendants' case. I consider that the first of those possibilities is remote. Mr Rajan Sohal was well aware of the importance of documentation; hence the desire for the three Deeds in the first place. I consider that Mr Rajan Sohal's failure to obtain the documents from the garage at 31 Windsor Road

because of the uncooperative nature of the tenants is probably true, but demonstrates a lack of sufficient determination to obtain what were clearly important documents. There has been no satisfactory explanation as to the absence of relevant bank statements. It was said that they were too old to be obtained from the banks, but there was no written evidence of that and I do not accept that at least the more recent statements could not have been obtained and provided.

75. That negative effect is increased by reason of the Defendants' failures timeously to comply with the court orders for the production of the originals of the three Deeds and the mortgage statements as mentioned above.
76. To my mind that negative effect is to some extent reduced by reason of the bombardment of the Defendants by Mr Sahota with a wide range of allegations about properties, companies and businesses with which he alleged Mr Rajan Sohal and/or Mrs Pooja Sohal had been involved and which were alleged to disclose iniquitous behaviour on their part, many of which proved to be speculative and unsustainable. In this context it is important to bear in mind that evidence of this nature might:
- (1) Go to the issues, either directly or indirectly; in which case clearly it is admissible.
 - (2) Go to credibility. In which case it is admissible, though generally questions asked in this regard are collateral and the witness's answers to them are final.
 - (3) Be irrelevant and inadmissible.
77. Mr Anderson described Mr Sahota's approach as a scattergun approach with many shots being fired. In my opinion that is a fair description; but even a scattergun may hit the occasional target, and in my judgment a few of Mr Sahota's and Mr Panton's shots did hit their targets. Further, the scattergun approach was understandable because to a very large extent Mr Sahota was starting from a position of ignorance and faced the challenge of upsetting what, on their faces, were three valid Deeds, the circumstances of the execution of which he knew little or nothing about when these proceedings were started by him.
78. Overall, I treat the witness statement and oral evidence of all the witnesses with caution except where it is corroborated by documentary evidence or is of an uncontentious nature.

Various allegations about properties, companies and businesses which do not go to the issues

79. Mr Sahota alleged, as mentioned above, that Mr Rajan Sohal had pleaded in his Defence in the QBD action that documents which had been signed whilst in his possession and which purportedly bore the signature of Mrs Pooja Sohal, actually had not been signed by her. In the witness box Mrs Pooja Sohal admitted that the signature which purported to be hers on the contract was not her signature. However, neither the exhibited copy of that Defence nor paragraphs 9(c) or 13(c) of it indicate that the documents were in the possession of Mr Rajan Sohal when signatures purporting to be those of Mrs Pooja Sohal were applied to them. Clearly Mrs Pooja Sohal's signature on the contract was forged by somebody, but in my judgment insofar as it is suggested that this allegation shows that Mrs Pooja Sohal's signature was forged by Mr Rajan Sohal, it is not made out. The allegation is collateral to the issues before me and I place no reliance on it.

80. As regards the investigation into Mr Rajan Sohal, Mrs Pooja Sohal and Mrs Veena Sohal in relation to Property Master Construction and the allegation that Mr Rajan Sohal, Mrs Pooja Sohal and Mrs Veena Sohal did not cooperate with the administrators of that company and that there was an absence of any books and records. The administrator's report stated at its paragraph 8 that the Joint Administrators had submitted a report on the conduct of the directors to the Department for Business Energy and Industrial Strategy and that due to the non-cooperation of the directors and the absence of any books and records, the Joint Administrators were not able to undertake a comprehensive review. At most this shows non-cooperation of the directors and an absence of books and records going to that. I consider that this allegation does not show any relevant bad character in the Defendants going either to the issues or to their credibility.
81. Mr Sahota raised questions about what Mr Rajan Sohal had said was a loan to him from Mr Rajesh Kanda, secured on the 17 and 19 Wycombe End property. In the event Mr Panton did not pursue the allegation that this security was not properly given to Mr Kanda. Nor did Mr Panton pursue in cross-examination Mr Sahota's suggestion that there was no similarity between Mrs Pooja Sohal's signature as it appears on the facility agreement from Mr Kanda dated 2 January 2019 and her signature as it appears on the three Deeds.

Mr Rajan Sohal's statements about 58 London Road

82. In a statement in the QBD proceedings dated 11 May 2020 signed by him under a statement of truth Mr Rajan Sohal stated:
- “I have made huge losses on a number of projects and emailed the lawyers of Talvinder [Mr Sahota] with a repayment plan.
I also offered security on a property in Slough which is solely owned by me.
...”
83. A copy of the email is exhibited. It is from Mr Rajan Sohal to Mr Sahota's solicitors. It is dated 17 March 2020. In it Mr Rajan Sohal suggests what he describes as an “amicable way” forward of disposing on Mr Sahota's claim against him. He offers a payment schedule of £50,000 on 15th May 2020; £50,000 on 30th September 2020; £50,000 on 30th December 2020 and “final and full” on 30th March. It refers to 58 London Road, Slough and states:
- “You can have a charge or an option agreement to sell within 12 months as protection. This is owned by me entirely 100 percent. Worth £1 - £1.1mill – Debt £650k.”
84. In its context that is a clear statement that there was equity in 58 London Road of some £350,000 - 450,000. The statement was made with a view to encouraging Mr Sahota to settle his claim.
85. Four months later, on 2 July 2020, Mr Rajan Sohal made another witness statement in the QBD proceedings. Again signed by him under a statement of truth. In this statement he said that the property 58 London Road and Land at the North West side of 58 London Road was “with the receivers” and is being sold for £850,000. He said “the mortgage on this property is currently £610,000 on an interest only basis and has an

early redemption penalty of 2%. There are also arrears of approximately £30,000 to be added as well.” Aside from what might most kindly be said to be Mr Rajan Sohal’s over optimism as to the value of the property in his 17 March 2020 email; that fits reasonably well with what is said in the 17 March 2020 email.

86. What does not fit with the 17 March 2020 email is what was said next in the 2 July 2020 email:

“There is a restriction on title of this property with Mrs Dogra as I had a joint venture deal with this lady, to gain planning for two houses and make a profit. This did not work out.

Mrs Dogra is entitled to all the equity in the property which is approximately, £850,000 less £670,000 which equates to £180,000. Her agreement stated £340,000 and she is obtaining far less than she was expecting per the agreement signed.

Evidence attached –

Mortgage balance with Together Commercial Finance.

E-mails from receivers.

E-mail from Mrs Dogra solicitors

Statement signed with Mrs Dogra.”

87. So, on 17th March 2020 Mr Rajan Sohal effectively said that the property was owned by him “entirely 100 percent” subject only to debt of £650,000. By 2 July 2020 he was saying that the £650,000 odd debt was still there, but that Mrs Dogra was entitled to all the equity in the property. 58 London Road and the land to the North West of 58 London Road were, as the Land Registry entries show, both subject to restrictions entered on 11 September 2019 in favour of Mrs Dogra. Thus, the transaction with Mrs Dogra which entitled her to the equity in 58 London Road was entered into and affected the property long before Mr Rajan Sohal sent his email of 17 March 2020 and made his statement of 11 May 2020.

88. In the witness box Mr Rajan Sohal sought to explain the apparent conflict between his statements in those emails on the basis that they represented his interpretation of the position at the time. If it was, he was deceiving himself. At the very least he must have known that he had a deal with Mrs Dogra in relation to the property. Nevertheless he made no mention of it to Mr Sahota until July 2020 and he made the categorical statement to the effect that the equity in the property was available as security for the payments he was proposing to make to Mr Sahota. In cross-examination Mr Rajan Sohal said that he did not lie on this point. I find that he did. Mr Rajan Sohal deliberately made a false statement as to ownership of the property.

Allegation as to transfer of 26 Cedar Close to a Jersey Trust

89. Mr Sahota stated that 26 Cedar Close “was transferred into a Jersey trust Panmor Limited”, “potentially in an attempt to hide his assets from creditors”. Panmor Limited was a Jersey company and 26 Cedar Close was transferred to it. However, the allegations that the transfer was “into a trust” and was effected “potentially in an attempt to hide his assets from creditors” are wholly unfounded and, indeed are contradicted by the material exhibited by Mr Sahota in relation to 26 Cedar Close. Thus, the screenshots exhibited by Mr Sahota showing part of the Land Registry entries for 26 Cedar Close

as at 8 February 2021 show Panmor Limited as the registered proprietor; it having been registered as such on 23 October 2012, with the price stated to have been paid on 16 October 2012 having been £900,000. That this was a simple sale of the property by Mr Rajan Sohal and Mrs Veena Sohal to Panmor Ltd is confirmed by the completion statement prepared by Hibberts LLP which Mr Rajan Sohal produced during the overnight break in his cross-examination. This shows a sale price of £900,000; various costs and expenses; redemption of a Mortgage Express charge for £529,320.46; estate agents' fees of £14,460 and a net balance due to the vendors of £353,588.96.

90. The allegations made by Mr Sahota as to the transfer of 26 Cedar Close “into a Jersey Trust”, show most clearly the difficulty with taking the statements made in his witness statements at face value. Thus, in paragraph 21 of his statement of 6 May 2022 he says “I know that 26 Cedar Close was never sold but hidden in a trust fund offshore”. He did not know that. He merely jumped to that incorrect conclusion, and stated it as a fact. This sort of statement by Mr Sahota is the reason why I approach his apparent statements of fact with considerable caution, except where it is clear that they do indeed derive from his own knowledge or where they are supported by documentary evidence.
91. As regards Mr Sahota’s allegations that 26 Cedar Close had been acquired by Mr Rajan Sohal as a buy to let investment in 2000 and had been occupied by the Sohal family in breach of the terms of the buy to let mortgage: I was not taken to any documentation which substantiated these allegations; Mr Rajan Sohal was not cross-examined about them; they do not go to the issues; I do not find them sufficiently made out to have an impact on Mr Rajan Sohal’s credibility; and I have ignored them.

Claim by The Address Group and Lina Pankhania

92. Mr Sahota exhibited a screenshot of a public search result in proceedings filed on 18 December 2019 by The Address Group Limited and Lina Pankhania against (1) Mr Rajan Sohal, (2) PFS Investments Ltd, (3) Parras Investments Ltd and (4) Mrs Pooja Sohal. The proceedings are there stated to be a Part 7 claim for breach of contract. In paragraph 14 of his statement 26 January 2022 Mr Sahota makes a number of allegations in relation to these proceedings by way of unattributed hearsay which, if established, would go to Mrs Pooja Sohal’s credibility. Mrs Pooja Sohal did not respond to these allegations in her statement of 21 March 2022, and she was not cross-examined about them. In her statement of 21 March 2022 Mrs Pooja Sohal did refer to the Address Group proceedings. She said she had been appointed a director of Parras Investments Ltd by Mr Rajan Sohal in 2012 in order to help the company raise finance and re-finance. She thought the dispute related to some of Mr Rajan Sohal’s projects in Wales, although she says she was not involved in those projects. She said she thought she first learned about this claim in around December 2019. I place very little weight on the allegations in respect of The Address Group Limited and Lina Pankhania, but as mentioned above, for other reasons I approach Mrs Pooja Sohal’s evidence with caution.
93. As regards Property Master Construction Limited: Mrs Pooja Sohal and Mrs Veena Sohal were appointed directors of this company on 21 January 2019. In her statement of 21 March 2022 Mrs Pooja Sohal said that she was appointed on Mr Rajan Sohal’s suggestion. She said he told her that her and Mrs Veena Sohal’s appointment as

directors would help the company to re-finance because of problems with Mr Rajan Sohal's credit. In the same statement Mrs Pooja Sohal also says that she did not find out until 2020 that Mr Rajan Sohal's projects had failed and that he was in financial distress. However, what is apparent from her own statement is that by early 2019 she knew that Mr Rajan Sohal had a problem with his credit.

11a Devonshire Road, Chiswick

94. This is one of the properties referred to in the 2012 Deed.
95. The Land Registry entries show that Mrs Veena Sohal became its registered proprietor on 2 August 1990.
96. Mrs Veena Sohal's evidence is that her husband, Mr Avtar Singh Sohal, died on 10 August 1987 at the age of 44; that he had not made a will and had died intestate. I have not seen any paperwork relating to the devolution of Mr Avtar Singh Sohal's estate. However, she says that 11a Devonshire Road was owned jointly by her and her husband. I have no reason not to take that statement at face value. Accordingly, so far as 11a Devonshire Road is concerned, the devolution of Mr Avtar Singh Sohal's estate is irrelevant, in that 11a Devonshire Road would have passed under the law of survivorship to Mrs Veena Sohal rather than under Mr Avtar Singh Sohal's intestacy.
97. Mrs Veena Sohal said in her statement of 17 December 2021 that so far as she could recall Mr Rajan Sohal took charge of the administration of her husband's estate. Under cross-examination she said that she left all dealings to Mr Rajan Sohal and that she trusted him. I accept that evidence of Mrs Veena Sohal.
98. Mr Sahota alleges that when he first met Mr Rajan Sohal he told his friend Arvi Chana his father left him 11a Devonshire Road, Chiswick and it was mortgage free. Mr Chana did not give evidence and on the issue of the beneficial ownership of 11a Devonshire Road I attach no weight to this allegation. I attach little weight to it on the point as to Mr Rajan Sohal's willingness to make untrue statements as to the ownership of property, but find that point made out on the basis of other evidence; specifically the statements as to the ownership of 58 London Road in the email of 17 March 2020.
99. Mr Panton on behalf of Mr Sahota put various documents to the Defendants in cross-examination with a view to showing that, before the 2012 Deed, 11a Devonshire Road was beneficially owned by persons other than Mrs Veena Sohal. In my judgment this attempt was a failure except as showing (i) that even in official paperwork Mr Rajan Sohal was careless or reckless as to who he or his agent said owned what and (ii) that he was willing to use his mother and wife as borrowers in order to raise money for him to use. Specifically:
 - (1) Mr Panton relied on and put to the witnesses planning documents in respect of 11a Devonshire Road which showed Mr Rajan Sohal as its owner. In particular:
 - a. An application dated 14 November 2012 in respect of a mansard roof. The applicant was Mr Rajan Sohal. His agent had signed certificate "A" to the effect that nobody except for the agent or the applicant was the owner. By this time, if the 2012 Deed was effective, Mr Rajan

Sohal and Mrs Pooja Sohal were the beneficial owners of 11a Devonshire Road.

- b. An application by Mr Rajan Sohal as applicant for a lawful development certificate apparently made in 2016, or at least post-dating some pre-application advice of 22 January 2015. This contained a statement that the applicant's interest in the land was as owner. In cross-examination Mr Rajan Sohal sought to explain this as a mistake on the part of the architect who made the application on his behalf. Again, by this time, if the 2012 Deed was effective, Mr Rajan Sohal and Mrs Pooja Sohal were the beneficial owners of 11a Devonshire Road.

However, those planning documents were not dispositive of any interest in the property and in my judgment the statements in them as to ownership of the property did not affect its legal or beneficial ownership.

- (2) A legal charge made on 13 February 2019 between (1) Mrs Veena Sohal and Mrs Pooja Sohal as the "Borrower", and (2) Together Commercial Finance Limited as "the Lenders". A copy of the legal charge itself was not in evidence, but there is a copy of the appointment by Together Commercial Finance Limited of Law of Property Act receivers under the legal charge. The notice is dated 17 December 2020. Mr Rajan Sohal's explanation of Mrs Pooja Sohal being one of the Borrowers was that sometimes a lender would want a second person on the loan, and that it was not represented that Mrs Pooja Sohal had a beneficial interest in the property. In cross-examination Mrs Pooja Sohal said that she never owned 11a Devonshire Road and that she was only a guarantor of the loan from Together Commercial Finance Ltd. Despite the absence of documentary evidence in the form of, possibly amongst other things, the mortgage application, I accept that evidence. In the absence of a copy of the legal charge I cannot find that it effected any form of transfer of any part of the legal or beneficial ownership in the property from Mrs Veena Sohal to Mrs Pooja Sohal.

100. Accordingly, I find that until the execution of the 2012 Deed, 11a Devonshire Road was owned legally and beneficially by Mrs Veena Sohal

Witness signature to 2015 Deed

101. After being sworn, Ms Sehgal was taken by Mr Anderson to the signature page of her witness statement. She confirmed that the signature on the statement was hers and that the statement was true. No point was taken about her name in the printed part of her witness statement appearing as "Sohal" and her name as signed on the witness statement, as spelt on the 2012 Deed and as on the Company Form 228a appearing as "Sehgal".
102. In cross-examination, Ms Sehgal was taken to her signature on a Company Form 228a dated 3 October 2010. She confirmed that that was her signature. That version of her signature was very similar to her signature on her witness statement. Particular features of that version ("the Form 228a version") are that:
 - (1) All the letters slope well forwards from bottom to top
 - (2) The "A" of "Anita" is thin and tall. Its cross-stroke is straight. It is not attached to the "n".

- (3) The sloping vertical stroke if the “i” is continued and curves round to the top of the “t”.
 - (4) The “a” at the end of “Anita” is joined to the “S” of “Sehgal”.
 - (5) The “S” and “l” of “Sehgal” both have loops at the tops of their strokes.
103. In comparison on the version of Ms Sehgal’s signature on the 2015 Deed (“the 2015 Deed version”):
- (1) The letters in “Anita” are vertical or slightly backwards sloping.
 - (2) The “A” of “Anita” is wider than in in the Form 22a version. Its cross-stroke is curved down to near the base of the second limb of the “A”.
 - (3) The “i” is conventional with a dot on the top of it. It is connected to the “t” from its base, not from its top.
 - (4) There is a clear space between the end of “Anita” and the start of “Sehgal”.
 - (5) The “S” of “Sehgal” does not have a loop in it; though that would be natural because it was not connected the “a” which connection had created the loop in the Form 288a version. The “l” of “Sehgal has a far less significant loop in it.
104. As set out above, in her statement Ms Sehgal explained the differences as being a consequence of her hand being swollen due to the health condition from which she was suffering.
105. When Ms Sehgal was in the witness box, Mr Panton asked her to repeat her signature as it was on the 2015 Deed. Ms Sehgal said at first that she would not be able to remember what she did on that day. Nevertheless Mr Panton handed her paper and a pen and asked her to try. She did so. The result (“the witness box version”) was a signature or writing which bore very little resemblance either to the Form 288a version or to the 2015 Deed version. It is more like a printed version of her signature, whilst the Form 288a version appears fluent and even the 2015 Deed version has elements of fluency which are not present in the witness box version.
- (1) All the letters except the “S” and the “g” are near vertical.
 - (2) The “A” has two vertical strokes joined with a clear curve at the top, as compared with the other versions where the top of the “A” has more of the appearance of the intersection of two lines. The cross-stroke of the “A” starts at the first of the verticals, whilst in the other two versions it starts outside the first near vertical stroke.
 - (3) The “i” is not connected to the “t” at all.
 - (4) The “S” is joined to the “e” which it is not in the other two versions.
 - (5) There are no visible loops in any of the letters.
106. Mr Panton put to Ms Sehgal that her signature “today” [i.e. when she was in the witness box] was very different from her signature on p.93 [of the hearing bundle – the copy of the 2015 Deed]. Ms Sehgal’s response was “every signature is different”. In my judgment this was a weak and unconvincing response.
107. Ms Sehgal’s evidence that she signed the 2015 Deed and that her hand was swollen was supported by Mrs Pooja Sohal in her 2nd witness statement where she said that her signature on the 2015 Deed was witnessed by Anita Sehgal.

108. In cross-examination Mrs Pooja Sohal was taken to a copy of the 2015 Deed. She said that Anita Sehgal did sign that Deed. She said that Anita Sehgal's body was swollen and sometimes shaky. There were no particulars as to where the Deed was signed. Mr Rajan Sohal denied that he forged Anita Sehgal's signature on the 2015 Deed.
109. I was told by Mr Panton that expert handwriting evidence was being sought, but had not yet been produced. However, none of the parties asked for an adjournment and I attach little weight to this.
110. Mr Anderson submitted that Mr Sahota's evidence did not relate to the recognition of the signature, but was an attempt to conduct a comparison of two versions of a signature. Mr Anderson submitted that such comparison was not permitted by witnesses of fact, and accordingly such evidence could not be admitted. In support of these submissions Mr Anderson referred me to *44 Wellfit Street Ltd v GMR Services Ltd* [2017] EWHC 1841 (Ch), per Chief Master Marsh at [88] – [96]. At [89] the Chief Master said that witnesses might not generally, unless they were experts, compare specimen signatures with disputed signatures and express an opinion about the likeness or otherwise of the disputed signature to the true samples. However, as the Chief Master explained at [93] it was not necessary for him in that case to rely on the comparison evidence.
111. S.8 Criminal Procedure Act 1865 applies to both criminal and civil proceedings. It provides that “comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine shall be permitted to be made by witnesses; and such writings, and the evidence of witnesses respecting the same, may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute.”
112. As a general rule a witness may not give opinion evidence. In the present case I consider that the issue is not whether I can rely or properly put any weight on Mr Sahota's comparisons, which I do not, but whether I can make my own comparisons, as I have done above, and rely on them for the purpose of reaching a conclusion as to the genuineness of Anita Sehgal's signature on the 2015 Deed. In my judgment I can. That is for two reasons, both of which are capable of standing independently of the other and by reason of a third more general consideration:
- (1) S.8 Criminal Procedure Act 1865 does not itself expressly limit the witnesses who can make the comparisons to expert witnesses. If it had been intended to do so, parliament could have so provided.
 - (2) In *Doe v Wilson* (1855) 10 Moo PC 502 at p.530 the Privy Council decided that under the common law as it existed before it was changed by the statutory predecessor of s.8 Criminal Procedure Act 1865, a document containing an alleged true signature should not have been put to the jury for comparison with the allegedly false signature. However, the Privy Council expressed the view that the statutory change had altered the law in that regard; the implication being that if the document had been put to the jury at a time and in a jurisdiction where the statute applied, it would have been proper to have allowed the jury to make the comparisons. No question was raised as to that only being possible if there was expert evidence.
 - (3) The more general consideration is that it would be unsatisfactory with a view to obtaining a just result if, on a point which was only of secondary relevance (secondary because although the validity of the 2015 Deed as a deed is of some importance, if the 2019 Deed is valid, as I hold below that it is, the validity of

the 2015 Deed is less important), the court had to insist on there being expert evidence before making a comparison of its own.

113. *Doe v Wilson* (1855) 10 Moo PC 502 at p.530 is also authority for the propriety of the course adopted by Mr Panton in asking Anita Sehgal to attempt to write her signature, for the purposes of comparison, in the judge's presence, and then leave it to the judge to make the comparison.
114. In my judgment, having regard to the differences between the versions of Anita Sehgal's purported signatures; her weak and unconvincing responses in cross-examination; the lack of any detailed explanation from the Mrs Pooja Sohal or Mr Rajan Sohal as to the place and time of execution of the 2015 Deed and the failure to produce copies of the instructions or attendance notes which resulted in the production of the draft of the 2015 Deed, the balance of probabilities comes down against Anita Sehgal having signed the 2015 Deed.
115. The fact that Anita Sehgal did not sign the 2015 Deed means that it cannot take effect as a deed (s.1(3)(a)(i) Law of Property Miscellaneous Provisions Act 1989). Nevertheless it might take effect as an agreement as between its parties. In terms of assessing the Defendants' witness evidence, Mr Rajan Sohal and Mrs Pooja Sohal were not telling the truth when they said that Anita Sehgal did sign the 2015 Deed.

Acacia Securities

116. In paragraph 5 of his 2nd statement Mr Sahota stated that Mr Rajan Sohal was "apparently" under investigation with regard to a company of his called Acacia Securities Limited ("Acacia"). The exhibited liquidator's report confirmed that a confidential report had been submitted by the liquidator to the Secretary of State which included matters which might indicate that the conduct of any past or present director would make them unfit to be concerned with the management of the company. Without more that does not take the issues or questions of credibility any further.
117. In his witness statement of 26 January 2022 Mr Sahota states that Acacia was incorporated on 22 October 2008 by Mr Rajan Sohal and Gary Sukhram. Martin Abrams and Richard Rimmer were appointed as directors on 12 October 2011, and Gary Sukhram's appointment terminated. Mr Sahota says that Acacia's business was set up to run a hedge fund with investments from individual investors and institutional investors. Without giving his sources, he says:

"the company is believed to have raised around £2.5m of investment which grew in value to close to £5m. The directors had a falling out with the hedge fund trader, Gary Sukhram, and he left the business. The fund was subsequently mismanaged by the director and the investors lost all their money. In addition there is understood to be questionable expenses claimed from the company by Rajan and the directors.

7. On 7th April 2012 Rajan Sohal and the other directors of Acacia Securities Ltd filed a claim against Gary Sukhram. (See Screenshot 3 and 4 in exhibit TS3). They subsequently lost, and Gary's legal costs were awarded against the applicants. I understand these costs were in excess of £150,000. The other two

directors of Acacia Securities Ltd, Richard Rimmer and Martin Abrams settled with Gary Sukhram.

8. Subsequent to that Court result, on 2nd October 2012 we see at Companies House the termination of appointment of Richard Rimmer as a director.

9. The significance of the above could potentially be that only 3 days later, on 5th October 2012, the Deed of Trust relating to 31 Windsor Road, Gerrards Cross was allegedly executed by Rajan, Pooja and Veena Sohal. Whether these events are actually related I do not know but I put the information before the Court so that the Court can decide whether potentially this Deed of Trust dated 5 October 2012 was actually an attempt to put assets out of the reach of a creditor. Not actually me at the time but another creditor.”

118. The penultimate sentence just quoted typifies some of the contents of Mr Sahota’s statements. It is not a positive allegation, merely a suggestion that something potentially might be the case. It is not the court’s job to make a case one way or the other, but to judge which of the parties’ cases is correct.
119. The alleged costs order is not in evidence. In cross-examination Mr Rajan Sohal said that the company had to pay the costs. In his statement of 26th January 2022 Mr Sahota says “I understand these costs were in excess of £150,000”. He does not identify the source of his understanding.
120. Mr Panton sought to make a case to the effect that the alleged Acacia order was the trigger for the creation of the 2012 Deed. That is possible, but the lack of the fundamental building block for it in the form of a copy of the order; the lack of evidence as to whether Mr Rajan Sohal had to or did contribute to the costs of the Acacia proceedings and the general uncertainty which the evidence gave rise to as to the nature of the claim and its outcome mean that as a matter of fact, on the balance of probabilities, I do not find that this particular case is made out.

Conclusions on value provided to Mr Rajan Sohal by Mrs Veena Sohal under 2012 Deed

121. Pulling together all the many strands, my conclusions on the value provided by Mrs Veena Sohal are as follows:
 - (1) From before 2012 Mr Rajan Sohal was involved in various businesses or enterprises, including, but not restricted to dealing with, investing in and developing property.
 - (2) From the time of death of Mr Avtar Singh Sohal, generally Mrs Veena Sohal’s properties and assets were administered by Mr Rajan Sohal. Mrs Veena Shal was content for Mr Rajan Sohal to do that and to apply money raised from the properties for such purposes as he saw fit.
 - (3) 231 Rochford Gardens: I accept Mrs Veena Sohal’s evidence in cross-examination that this had been in the joint names of her and her husband, Mr Avtar Singh Sohal. On his death she became the sole legal and beneficial owner of this property. However, as Mr Rajan Sohal explained at the end of his cross-examination, his name had been added to the title in 2000 and £250,000 was obtained out of the property by way of mortgage. Under cross-examination Mr

Rajan Sohal said that he was “put on” Rochford Gardens in order to get money out of it to use for the purchase in 2000 of 26 Cedar Close. Mrs Veena Sohal said that the money to purchase 26 Cedar Close was hers. The two statements are reconcilable on the footing that the cash element of the purchase came from Mrs Veena Sohal’s 231 Rochford Gardens property. 231 Rochford Gardens was sold in or around November 2012 for £325,000. Net after redemption of the mortgage and fees, the sale realised £73,666.82. Mrs Veena Sohal permitted Mr Rajan Sohal to use the net sale proceeds for the acquisition and re-development of 31 Windsor Road. Thus, this element of Mrs Veena Sohal’s contribution to the 31 Windsor Road project was £73,666.82, or, if the addition of Mr Rajan Sohal’s name to the title had changed the beneficial ownership of the property, half of that amount, i.e. £36,833.41. In my judgment, on the balance of probabilities, in 2012 Mrs Veena Sohal had a beneficial interest in half of the net proceeds of sale of £73,666.82; that is to say in £36,833.41, but no claim against Mr Rajan Sohal for the £250,000 raised by way of mortgage in 2000 which was applied in the purchase of 26 Cedar Close in their joint names. My analysis as regards the net proceeds of sale is that when, in 2000, the property was transferred from the sole name of Mrs Veena Sohal into the joint names of Mrs Veena Sohal and Mr Rajan Sohal, it is more likely than not that that effected a transfer of half the beneficial interest in the property from Mrs Veena Sohal to Mr Rajan Sohal. I reach that conclusion by reason of Mr Rajan Sohal’s evidence to the effect that the transfer was effected so that Mr Rajan Sohal could appear as a joint owner for the purpose of obtaining the £250,000 mortgage. If he was made an owner for that purpose it would have been inconsistent with that purpose for him not to have been made a beneficial as well as a legal joint owner. As regards the £250,000 raised by way of mortgage in 2000 which was applied in the purchase of 26 Cedar Close, any interest which Mrs Veena had in that £250,000 went into 26 Cedar Close, and in 2012 she had no claim in respect of the £250,000. Thus, under the 2012 Deed Mr Rajan Sohal and Mrs Pooja Sohal obtained £36,833.41 from Mrs Veena Sohal in respect of 231 Rochford Gardens.

(4) 26 Cedar Close was vested in the joint names of Mrs Veena Sohal and Mr Rajan Sohal, but on Mrs Veena Sohal’s evidence the monies used to purchase the property were hers. Nevertheless, in the absence of other evidence the presumption is that the beneficial interests would follow the legal interest, with the consequence that Mrs Veena Sohal and Mr Rajan Sohal would have been beneficial joint tenants of the property. By the time this property was sold in 2012, Mr Rajan Sohal had caused it to be mortgaged for what by 2012 was some £529,000. In re-examination Mr Rajan Sohal said that the mortgage was less than £529,000 in 2000 and that he took out more for investment purposes. He said the re-financing was an extra £200,000. There was no documentary evidence to support that figure, but I accept Mr Rajan Sohal’s evidence as to the extra £200,000 by reason of (i) Mr Sahota’s evidence that 26 Cedar Close was purchased with a buy to let mortgage, which in my view is unlikely to have been anywhere near as much as £529,000 in 2000; (ii) £529,000 minus £200,000 would make the initial mortgage £329,000. Mr Rajan Sohal gave evidence that the £250,000 mortgage on 231 Rochford Gardens was put towards the purchase price of 26 Cedar Close. £250,000 plus an initial mortgage of £329,000 would make an initial purchase price for 26 Cedar Close of £579,000 in 2000 which, with property price inflation over the 12 years to 2012 (of which I take judicial notice) is not consistent with the 2012 sale price of £900,000. After payment

off of the then mortgage and expenses of sale, the net proceeds of sale were £353,588.16, of which half, £176,794.08, were Mrs Veena Sohal's and half were Mr Rajan Sohal's. In addition Mr Rajan Sohal had had £200,000 by way of re-financing mortgage which came out of the jointly owned 26 Cedar Close. Thus, under the 2012 Deed Mr Rajan Sohal obtained half of £200,000, that is £100,000 from Mrs Veena Sohal in respect of the release of his liability in respect of what he had had under the re-financing mortgage; and Mr Rajan Sohal and Mrs Pooja Sohal obtained £176,794.08 from Mrs Veena Sohal in respect of her share in the equity in 26 Cedar Close.

- (5) 19 Morton Close: on the balance of probabilities I find that this property belonged legally and beneficially to Mrs Veena Sohal alone. It was sold for £325,000 in November 2012. Thus, under the 2012 Deed Mr Rajan Sohal and Mrs Pooja Sohal obtained £325,000 from Mrs Veena Sohal in respect of 19 Morton Close.
 - (6) 11a Devonshire Road: I have already held that after Mr Avtar Singh Sodal's death this property belonged beneficially to Mrs Veena Sohal alone. Over the years £1.1 million was raised by way of mortgage on this property. This £1.1 million was applied by Mr Rajan Sohal towards the 31 Windsor Road project or other elements of his business. Thus, under the 2012 Deed Mr Rajan Sohal obtained £1.1 million from Mrs Veena Sohal in respect of the release of his liability in respect of moneys taken by him from 11a Devonshire Road. I should add in this context that there is the legal charge of 11a Devonshire Road of 13 February 2019 to which Mrs Veena Sohal and Mrs Pooja Sohal were parties. However. This post-dated the 2012 Deed by 5 years and it was not suggested that any additional funds raised by it formed part of the £1.1 million.
 - (7) 2 DLF Phase 1 properties in India: there was no evidence before me as to the value of these. Mrs Veena Sohal says they had been in the name of her late husband before he died.
 - (8) Bank of Baroda deposits: there was no evidence before me as to the amount of these moneys.
122. Taking the figures from the immediately foregoing paragraph, the value provided by Mrs Veena Sohal under the 2012 Deed was:
- (1) To Mr Rajan Sohal alone: £100,000 (in respect of the release of his liability in respect of the re-financing mortgage of 26 Cedar Close); plus £1.1 million from 11a Devonshire Road = £1,200,000.
 - (2) To Mr Rajan Sohal and Mrs Pooja Sohal jointly: £36,833.41 (231 Rochford Road); plus £176,794.08 (net proceeds of sale of 26 Cedar Close); plus £325,000 (19 Morton Close) = £538,627.49, plus whatever the values were of the 2 DLF Phase 1 properties and the Bank of Baroda deposits.

The application of the money derived from Mrs Veena Sohal

123. The net £73,666.82 from the sale of 231 Rochford Gardens, the net £353,588.16 from the sale of 26 Cedar Close and the £325,000 from the sale of 19 Morton Close total some £752,250. These net sums were all realised in the autumn of 2012 at or around the time of or after the exchange of contracts for the purchase of 31 Windsor Road and before completion of that purchase. Allowing for a relatively small contribution of £18,750 from the DLF Phase 1 properties and the Bank of Baroda deposits, that £752,250 fits with the £770,000 which, in paragraph 11 of his statement of 17th

December 2021 Mr Rajan Sohal says comprised a loan from Mrs Veena Sohal towards the purchase of 31 Windsor Road. Mr Rajan Sohal's evidence was that the balance of £500,000 needed for the purchase came by way of a loan from Bridgeco Linted. On that point I accept his evidence.

124. Mr Rajan Sohal said that £530,000 of the money derived from Mrs Veena Sohal's assets was used toward the re-development of 31 Windsor Road. Mr Sahota and Mr Panton speculated that money from Mr Sahota had gone into the re-development of 31 Windsor Road. That is quite possible, but the point was not sufficiently investigated in the evidence or submissions for me to reach a conclusion on the point.

Submission that Defendants are bound by the position as to the beneficial ownership of 31 Windsor Road judged by reference to the TR1 of 10th January 2013

125. Mr Panton submitted that as a result of Mr Rajan Sohal and Mrs Pooja Sohal having declared by the TR1 dated 10th January 2013 that they held 31 Windsor Road on trust for themselves, they cannot now assert that Mrs Veena Sohal had a beneficial interest in the property. I reject that submission for the following reasons:

- (1) The beneficial interests in the property could be changed by subsequent agreement.
- (2) The existence of particular beneficial interests in the property would not prevent the beneficial owners of those interests from charging those interests in favour of a third party or another member of the family.

126. Mr Panton referred me to *Stack v Dowden* [2007] 2 AC 432, per Lady Hale JSC at [49] – [52] in support of his submission. In my judgment, paragraph 49 of Lady Hale's judgment itself disposes of Mr Panton's submission. She says there: "... No one now doubts that such an express declaration of trust is conclusive unless varied by subsequent agreement or affected by proprietary estoppel ..."

127. In paragraph 49 Lady Hale was dealing with unregistered land, but I do not read or understand her to have been saying in the subsequent paragraphs of her judgment, that any different rule applied to registered land. In my opinion the rule is the same for both registered and unregistered land: an express declaration of trust is conclusive as between its parties, but that does not prevent that declaration from being varied by subsequent agreement.

128. Mr Panton made a related submission to the effect that it was not open to Mr Rajan Sohal and Mrs Pooja Sohal to "go behind the declaration of trust that they registered at the time of purchase". He submitted that it "is just not permissible to try to rely on documents that are not registered at the Land Registry to give a completely different interpretation to documents that are registered at the Land Registry, for which purpose Mr Panton referred me to *Cherry Tree Investments Ltd v Landmain Ltd* [2012] EWCA Civ 736, [2013] Ch 305. In my judgment these submissions are misconceived and are based on a fundamental misunderstandings about what was and what was not registered at the Land Registry and of the *Cherry Tree* case:

- (1) The TR1 was nor "registered at the time of purchase" or ever.
- (2) The TR1 was not on and did not form part of the register. The TR1 was a document which was kept by the registrar which related to an application to him

within the meaning of s.66(1)(c) Land Registration Act 2002 and of which a copy might be obtained under s.67(1)(c) Land Registration Act 2002, but it did not itself comprise a registered interest.

- (3) The register records only the ownership of the registrable legal estate for it is a paramount principle of the land registration system that the equitable interests arising by way of trust are kept off the title register. Indeed, s.78 Land Registration Act 2002 provides that the Registrar “shall not be affected with notice of a trust”, although it is permissible for the register to indicate by way of general description and for information only that the proprietors are trustees.
 - (4) What was decided in *Cherry Tree Investments Ltd v Landmain Ltd* [2012] EWCA Civ 736 [2013] Ch 305 was that where there was a registered interest (in that case a registered charge) on the land register, although background material which did not appear on the face of the registered charge was admissible as an aid to construing the charge, the influence which such material should have on that construction was to be determined by asking what weight the reasonable person with all the background knowledge of the parties would attribute to it; that in view of the public nature of a registered charge, which was addressed to anyone who wished to inspect the register and could be expected to rely on it, such a person would conclude that matters which the parties had chosen to keep private should not influence those parts of the bargain which they had made public in the register; that the terms of collateral documents to which a third party contemplating dealing with the land had no access should not therefore influence the process of interpretation.
 - (5) In the present case there was no part of the register which could be construed one way or the other as specifying the beneficial interests in the property.
 - (6) In any event, by reason of the possibility of beneficial interests being altered by agreement, it would be unwise and unreasonable for a third party to rely on any statement as to beneficial ownership in the TR1.
129. What does emerge from the absence of the declaration of trust referred to in the TR1 is that the beneficial interests in the property as they came to exist at the time of its acquisition will be the same as the legal interests. In other words, subject to any mortgages, future dispositions or charges, on its acquisition, as between Mr Rajan Sohal and Mrs Pooja Sohal, the property will have become held by them on trust for themselves as beneficial joint tenants. That follows from the application of the principles set out by Lady Hale JSC in the Supreme Court in *Stack v Dowden* [2007] UKHL 17, [2007] 2 AC 432.
130. Those principles are that where a domestic property was conveyed into joint names of cohabitants without any declaration of trust there was a prima facie case that both the legal and beneficial interests in the property were joint and equal; that the onus of proof lay upon any party seeking to establish that equity should not follow the law; that such a party had to prove that the parties had held a common intention that their beneficial interests should be different from their legal interests, and in what way; that in order to discern the parties’ common intention the court should look at the parties’ whole course of conduct in relation to the property; that the law had moved on from the presumption of resulting trust and many more factors other than the parties’ respective financial contributions might be relevant to divining their true intentions; and that when all relevant factors were taken into account, cases in which the joint legal owners were to

be taken to have intended that their beneficial interests should be different from their legal interests would be very unusual.

131. In his statement of 23 October 2020 Mr Rajan Sohal said that he did not know why the 75:25 split was not set out in the 2012 Deed. He said there in respect of why that split was not set out in the 2012 Deed and other matters, that “they should have been, in order to reflect what was agreed between Veena, Pooja and me prior to the purchase of 31 Windsor Road.” By way of contrast, in her statement of 17 December 2021, Mrs Pooja Sohal stated that Mr Rajan Sohal told her that as she was younger, her having a greater share under the 2015 Deed would mean that a mortgage lender would agree to lend them a larger sum of money than they would do otherwise. Thus, Mr Rajan Sohal was saying that the 25:75 split was agreed before the purchase, while Mrs Pooja Sohal was saying that the 2015 Deed effected a change in the beneficial ownership. Under cross-examination Mrs Pooja Sohal repeated that the 25:75 split under the 2015 Deed was so that it could be represented to a mortgage company that she had a bigger share, and to make it easier to borrow on 31 Windsor Road. Under cross-examination, Mr Rajan Sohal was asked why Mrs Pooja Sohal was given 75%. His response was that it might have been for a loan or because they had a daughter and so that their daughter’s mother could be protected. Mrs Veena Sohal said under cross-examination that Mr Rajan Sohal and Mrs Pooja Sohal had told her that they owned the property 75:25 when they started having it made, which I take to mean re-developed. Mrs Veena Sohal said that Mrs Pooja Sohal got the larger 75% interest because she worked hard and “did everything”. It was not clear whether that was because that was what she was told or whether it was speculation on her behalf.
132. In my judgment those somewhat conflicting accounts of when and why the 2015 Deed provided for the 25:75 split are insufficient to establish that Mr Rajan Sohal’s and Mrs Pooja Sohal’s intentions at the time of their purchase of 31 Windsor Road were that they should hold its beneficial interests between them otherwise than on a 50:50 basis.

The 2012 Deed

133. The most relevant facts against the background of which I interpret the 2012 Deed are that:
- (1) As held by me above, Mrs Veena Sohal owned or had interests in the properties mentioned in the Deed or in their products by way of what is referred to in the deed as “refinancing” or may have had claims against Mr Rajan Sohal in respect of those properties or the products.
 - (2) 26 Cedar Close which was part-owned by Mrs Veena Sohal and which was the home of all three of Mrs Veena Sohal, Mr Rajan Sohal and Mrs Pooja Sohal was being sold with a view to its proceeds going directly or indirectly (possibly indirectly insofar as they were used in respect of elements of Mr Rajan Sohal’s business other than the 31 Windsor Road project) towards the acquisition and re-development of 31 Windsor Road, which when re-developed was to become their home.
 - (3) 231 Rochford Gardens which was part-owned by Mrs Veena Sohal was being sold with a view to its proceeds going directly or indirectly (possibly indirectly insofar as they were used in respect of elements of Mr Rajan Sohal’s business other than the 31 Windsor Road project) towards the acquisition and re-development of 31 Windsor Road.

- (4) 19 Morton Close which was owned by Mrs Veena Sohal was being sold with a view to its proceeds going directly or indirectly (possibly indirectly insofar as they were used in respect of elements of Mr Rajan Sohal's business other than the 31 Windsor Road project) towards the acquisition and re-development of 31 Windsor Road.
 - (5) 31 Windsor Road was being purchased in the joint names of Mr Rajan Sohal and Mrs Pooja Sohal.
134. Against that background I consider that:
- (1) It was reasonable and unsurprising that a document should be entered into recording the arrangements between the parties.
 - (2) The phrase used in the Deed that "Mr Rajan Sohal and Mrs Pooja Sohal will take the benefit of the following assets..." indicates that Mrs Veena Sohal was giving up her interest in the properties and assets listed in the Deed in favour of Mr Rajan Sohal and Mrs Pooja Sohal.
 - (3) Given what, even at the time, must have been a substantial degree of uncertainty as to exactly what Mr Rajan Sohal and Mrs Pooja Sohal were obtaining or would obtain in the way of "refinancing" and, more so as to what Mrs Veena Sohal was giving up, I consider that the "benefit of the following assets" would extend to what Mr Rajan Sohal had already had from the assets and to any claims or rights which Mrs Veena Sohal might have in respect of them. Otherwise the agreement effected by the deed would have resulted in Mrs Veena both "having her cake", in the sense of keeping her claims against Mr Rajan Sohal in respect of what he had had from her assets and "eating it" in the sense of also getting her "equitable interest/charge" of £2.5 million on 31 Windsor Road.
135. Accordingly, in my judgment, subject to the possible challenges made by Mr Sahota, the effect of the 2012 Deed was that in exchange for her interests in the properties and assets listed in it or in their sale or mortgage proceeds or claims in respect of them, Mrs Veena Sohal obtained a £2.5 million equitable interest in or charge on 31 Windsor Road.
136. Some time was spent at the hearing debating whether the interest in Mrs Veena Sohal which the 2012 Deed created was an equitable charge or a beneficial interest. This was substantially prompted by Mr Panton's submissions as to the conclusivity of the TR1 as to the ownership of beneficial interests in the property which I have rejected above. Once those submissions are discarded, the point becomes less important. Whatever label is attached to Mrs Veena Sohal's interest under the terms of the 2012 Deed, it is clear that she was intended to have £2.5 million out of the property. In my judgment it is also clear that she was intended to have that £2.5 million in priority to Mr Rajan Sohal's and Mrs Pooja Sohal's beneficial interests in the property. In my judgment that follows from the fact that, as is also apparent from the TR1, the 2012 Deed treats Mr Rajan Sohal and Mrs Pooja Sohal as the purchasers of the property. The 2012 Deed then proceeds on the footing that Mr Rajan Sohal and Mrs Pooja Sohal would acquire the property, subject to a £2.5 million encumbrance in favour of Mrs Veena Sohal.
137. An equitable charge is created by appropriating specific property to the discharge of some debt or other obligation without there being any change in ownership either at law or in equity. In the context of the 2012 Deed the provision in respect of the £2.5 million was distinct from the roles of Mr Rajan Sohal and Mrs Pooja Sohal as purchasers. That

indicates that under the 2012 Deed Mrs Veena Sohal was not being treated as a purchaser. In my judgment that consideration tilts the balance in favour of the provision in respect of the £2.5 million operating as an equitable charge rather than as giving Mrs Veena Sohal a full beneficial interest in the property.

138. The sentence: “Mrs Veena Sohal cannot buy, remortgage or sell due to the legal requirement of age.” could be interpreted either as a recital of supposed fact or as imposing an obligation on Mrs Veena Sohal not to sell. The reference to “due to the legal requirement of age” indicates the former. Also the considerations that, once the arrangement was in place, there would be nothing for her to buy or remortgage and that the legal requirement of age would not prevent her from selling. In my judgment in the context of the 2012 Deed and against the relevant background that indication and those considerations are weightier than the possibly mandatory “cannot” with the consequence that this sentence does not impose an obligation on Mrs Veena Sohal.
139. The sentence: “Mr Rajan Sohal being the next of Kin ...will manage all these proceeds on behalf of Mrs Veena Sohal.” could be interpreted either as an attempt to ensure that the management of 31 Windsor Road was a matter for Mr Rajan Sohal or as affecting the whole scheme of the Deed so that the proceeds and refinancing remained assets of Mrs Veena Sohal. In my judgment, although the first of these interpretations involves stretching the meaning of “proceeds” to include or to refer to 31 Windsor Road, it is more consistent with the overall scheme of the Deed than the alternative, and represents the meaning of the sentence. The alternative would involve disregarding what in my judgment are the two main aspects of the Deed. They are that Mr Rajan Sohal and Mrs Pooja Sohal are to take the benefit of what were Mrs Veena Sohal’s assets and that Mrs Veena Sohal was to take a £2.5 million equitable interest or charge in 31 Windsor Road.

Land Registry entries in respect of the 2012 and 2019 Deeds

140. Mr Panton sought to make much of the fact that, until the restriction was entered on 25 June 2020 in relation to the 2012 and 2019 Deeds, no restrictions were entered on the title of 31 Windsor Road in respect of the Deeds.
141. Mr Anderson submitted, in my judgment correctly, by reference to ss.28 and 40 Land Registration Act 2002 that the interests arising under the Deeds did not have to be protected by restrictions in order to protect them against Mr Sahota’s charging order. Whether Mrs Veena Sohal’s interests under the Deeds are correctly categorised as equitable charges or as beneficial interests, they were not registrable estates or charges and they have priority over a charging order which, by s.3(4) Charging Orders Act 1979 has like effect as an equitable charge created by the debtor in writing under his hand.
142. In relation to Mr Sahota’s claims based on “sham” and s.423 Insolvency Act 1986, that submission alone does not wholly answer Mr Panton’s point. Other attempts might have been made to protect Mrs Veena Sohal’s interests by registration. If Mrs Veena Sohal’s interests were equitable charges, they could have been protected against third parties by registration of an agreed or a unilateral notice. On the other hand, if they were interests arising under a trust of land, then under s.33(a)(i) they would have been expressly excluded from protection by notice. I have already held that the 2012 Deed created an equitable charge, not a beneficial interest in the land. Accordingly Mrs

Veena Sohal's interest under the 2012 Deed might have been protected by registration of a notice.

143. The 2019 Deed gives Mrs Veena Sohal an entitlement "to the first £2,500,000 ... of any net proceeds of sale ...". The structure of the 2019 Deed is different from that of the 2012 Deed. The 2012 Deed has Mr Rajan Sohal and Mrs Pooja Sohal as purchasers, and only makes express provision for Mrs Veena Sohal to "take £2.5 million equitable interest/charge". The 2019 Deed provides for the Trustees to hold the net proceeds of sale on trust for themselves "in the following shares", Mrs Veena Sohal's specified share of the net proceeds being the first £2.5 million. That is an interest under a trust of land. Accordingly it was not capable of being protected by a notice. In my judgment the 2019 Deed gives Mrs Veena Sohal a proprietary beneficial interest under the trust, not merely a charge.

2012 Deed made after the date which it bears?

144. In my judgment there is no evidence to support the submission that the 2012 Deed was made after the date which it bears.

2012 Deed a sham?

145. The classic definition of a sham transaction is that of Diplock LJ in *Snook v London and West Riding Investments Ltd* [1967] 2 QB 786 at p.802 where he said:

"As regards the contention of the plaintiff that the transactions between himself, Auto Finance and the defendants were a "sham," it is, I think, necessary to consider what, if any, legal concept is involved in the use of this popular and pejorative word. I apprehend that, if it has any meaning in law, it means acts done or documents executed by the parties to the "sham" which are intended by them to give to third parties or to the court the appearance of creating between the parties legal rights and obligations different from the actual legal rights and obligations (if any) which the parties intend to create."

146. Mr Panton referred me to the statements about shams in Snell's Principles of Equity 24th ed at paras.22-062 – 22-068.

147. In my judgment there are two difficulties with the sham argument in relation to the 2012 Deed. First there is no evidence that the 2012 Deed was ever sought to be used to give a false impression to anyone or, indeed, to the court. The argument that it was sets out by assuming that which it needs to prove, that is that the rights and interests of Mr Rajan Sohal, Mrs Pooja Sohal and Mrs Veena Sohal in 31 Windsor Road were intended to be other than those specified in the 2012 Deed. Second, I am not satisfied on the balance of probabilities that the rights and interests of Mr Rajan Sohal, Mrs Pooja Sohal and Mrs Veena Sohal in 31 Windsor Road were intended to be other than those specified in the 2012 Deed.

148. There is a difference between (i) what the parties' rights were or would have been but for the 2012 Deed and (ii) what they were under the 2012 Deed. The fact that there was or may have been a difference between those two things does not mean that the 2012 Deed was a sham. What has to be established in order for the Deed to be a sham is that it was not intended to have the effect that it did and was to be used to give a false

impression to third parties or the court as to what the rights and obligations of the parties actually were.

149. Mr Panton sought to rely on a number of matters with a view to establishing the rights and interests of Mr Rajan Sohal, Mrs Pooja Sohal and Mrs Veena Sohal in 31 Windsor Road were intended to be other than those specified in the 2012 Deed.
150. First he suggested that because the Deed was never registered, it was not intended to have any effect. I have explained above that there was no need for the Deed to be registered in order for it to have effect as between its parties; but I agree that the failure to register a restriction in respect of it is a slight indication that it was not intended to have effect. Only “slight” because Mrs Veena Sohal did not have professional advice in relation to the 2012 Deed and, as she said, she trusted Mr Rajan Sohal, so there was no special reason why she should have thought that registration of a restriction or notice was desirable in her interest.
151. Second, Mr Panton submitted that there was no evidence that the transfers from Mrs Veena Sohal to Mr Rajan Sohal were intended to be anything other than gifts. In my judgment Mrs Veena Sohal’s evidence was too vague to bear this interpretation. At one stage in her cross-examination she said in respect of her properties that she could not remember if she gave them to Rajan; but soon afterwards she said that she gave the properties to Rajan to have the house (which I took to mean 31 Windsor Road) made. She said she gave them because he was her son and he was going to look after her. She said he gave her a share in the property. Later in her cross-examination she said in relation to the money from the houses, that her husband had told her to look after the kids. Mr Panton put to her that she did not expect a share in the new property (31 Windsor Road) in exchange for her gifts to Mr Rajan Sohal. Her responses were that she never thought about money and left all dealings to Rajan who she trusted. These responses might go to whether Mrs Veena Sohal provided substantial consideration for the 2012 Deed, but they do not go to the question of whether the parties to the 2012 Deed intended it not to have effect according to its terms.
152. Third, Mr Panton relied on the fact that one element of the parties’ intentions in executing the 2012 Deed was to keep Mrs Veena Sohal’s interest in 31 Windsor Road off the title and thereby to make it appear to third parties that, contrary to the position under the 2012 Deed, Mrs Veena Sohal did not have an interest in 31 Windsor Road. I accept the factual basis for this submission, which is reinforced by the sentence in the 2012 Deed as to Mrs Veena Sohal not being able to buy, remortgage or sell “due to the legal requirement of age”. However, it does not show an intention that the 2012 Deed should be used to give a false impression to third parties or the court.
153. Fourth, Mr Panton relied on what he submitted was the way in which the beneficial interests kept changing as the various Deeds were executed. He submitted that that meant that none of them were intended to have the legal effect which they would have done had they been true documents. This submission was based to some extent on Mr Panton’s submission, which I have rejected, that the 2012 Deed gave Mrs Veena Sohal a beneficial interest in rather than a mere equitable charge over the property. So far as Mrs Veena Sohal was concerned, subject to the submission that the 2019 Deed subordinated Mrs Veena Sohal’s charge to charges on 31 Windsor Road in respect of sums not used towards its acquisition or purchase (which submission I reject below),

the 2015 and 2019 Deeds did not change the value of her interests. So far as Mr Rajan Sohal's and Mrs Pooja Sohal's interests were concerned, the 2012 Deed did not deal with them; if effective, the 2015 Deed changed them from 50:50 to 25:75; which remained the case with them under the 2019 Deed. I do not see that change (essentially a gift by Mr Rajan Sohal of a 25% beneficial interest to his wife) as indicative of an intention that the deeds should not take effect in accordance with their terms. Accordingly I find that this submission is unsound as a matter of fact.

154. What in my judgment was the case on the evidence, clearly in respect of the 2015 and 2019 Deeds, and less clearly, but probably also the case in respect of the 2012 Deed, is that Mr Rajan Sohal intended as also, by their reliance on him, did Mrs Pooja Sohal and Mrs Veena Sohal, that the Deeds and the interests which they created or confirmed should be produced and used on some occasions, and not on others. Specifically Mr Rajan Sohal intended that when he considered that it would serve his purposes not to produce or refer to them he would not produce them and vice-versa when he thought that his purposes would be served by producing them, he would produce them. So far as the interests of Mrs Veena Sohal under the 2012 and 2019 Deeds were concerned, essentially the intention of Mr Rajan Sohal was that the Deeds would be available to establish her interests in the event of a "rainy day" in the sense of his creditors seeking to recover from him and his property, and that in the meantime he could and would deal with the properties and raise money on them and apply that money as he saw fit. The question is whether that makes the deeds shams.
155. It is clearly the law that in order for a transaction to be a sham, all the parties to it must have had a shamming intent. Mr Panton referred me to the passage in Snell's Principles of Equity 24th ed at para.22-068, the accuracy of which I accept, which states:

"In establishing the intention to mislead, it is enough that one of the parties signed the document without knowing or caring what he was signing, or that his intentions were not exercised independently of the other party who was controlling the transaction. Either way, this shows a reckless willingness to mislead third parties."
156. Applying that passage in the present context, Mrs Pooja Sohal's and Mrs Veena Sohal's evidence to the effect that they relied upon and trusted Mr Rajan Sohal in relation to the properties and the Deeds means that they are fixed with his intentions in respect of the Deeds.
157. In my judgment the "use in the event of a rainy day" intention does not necessarily result in the Deeds being shams. When they are not produced, they are not being used to mislead; it is their absence which may cause third parties to be misled as to the beneficial ownership of the property. When they are produced and relied upon they are not being used to mislead.
158. What would have made the Deeds shams would have been an intention in Mr Rajan Sohal that in reality Mrs Veena Sohal should not have the interest in 31 Windsor Road which the 2012 and 2019 deeds provided for her. He clearly intended, as the terms of the 2019 Deed themselves show, that the value of Mrs Veena Sohal's interest might be diminished by other borrowings for the purposes of the 31 Windsor Road project; but in my judgment that does not amount to an intention that the Deeds should not take effect in accordance with their terms.

159. Thus, my conclusion is that the case based on sham in respect of the 2012 Deed is not made out.

Did the 2012 Deed create an illusory trust?

160. Snell's Principles of Equity 24th ed at para.22-071 explains:

“A purported trust may be “illusory”. To call a trust “illusory” is a convenient, although analytically inaccurate, label. The trust transaction is illusory when the true intention gathered from the trust instrument was to leave the beneficial interest in the purported settlor of the trust rather than to create a trust for the beneficiaries named in the instrument.

An illusory trust is analytically different from a purported trust set out in a sham document. The sham doctrine is concerned with the misleading mismatch between the objective intentions of the parties in the trust instrument and their subjective intentions about the transaction between them. The conclusion that a trust is illusory follows from the construction of the trust instruments itself, rather than from a comparison between the terms of [the] trust instrument and the parties' subjective intentions.”

161. My interpretation of the sentence in the 2012 Deed beginning “Mrs Veena Sohal cannot buy ...” means that her equitable interest under the Deed is not illusory. It could be reduced or eliminated by Mr Rajan Sohal and Mrs Pooja Sohal taking out further mortgages on the property with priority to Mrs Veena Sohal's charge, but that would not have been possible without her consent if she had protected her interest with a notice. Also it would have been difficult for further borrowings immediately to swallow up the whole of the equity and wholly eliminate the value of Mrs Veena Sohal's equitable charge. Accordingly in my judgment the 2012 Deed is not an illusory trust.

Did the 2012 Deed effect a transaction within the scope of s.423 Insolvency Act 1986?

162. So far as relevant to this case, the conditions which have to be satisfied in order for the court to have jurisdiction to make an order under s.423 Insolvency Act 1986 in relation to a transaction between one person and another are:

- (1) The condition specified in s.423(1) that the transaction must be a transaction at an undervalue, and a person enters into such a transaction with another person if –
 - (a) he makes a gift to the other person or he otherwise enters into a transaction with the other on terms that provide for him to receive no consideration;
 - (b) [not applicable] or
 - (c) he enters into a transaction with the other for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by himself.
- (2) The condition specified in s.423(3) that the court is satisfied that the transaction was entered into by the debtor for the purpose –
 - (a) of putting assets beyond the reach of a person who is making, or may at some time make, a claim against him, or
 - (b) of otherwise prejudicing the interests of such a person in relation to the claim which he is making or may make.

- (3) That the applicant has standing to make the application under s.423(5) and s.424 Insolvency Act 1986.
163. The possibility of s.423 being engaged arises in respect of Mr Rajan Sohal's participation in the transaction.
164. One aspect of the question of Mr Sahota's standing to make an application under s.423 was raised and was substantially dealt with in the course of the hearing. I ruled in favour of Mr Sahota having standing. Briefly the point was that:
- (1) S.424(1) Insolvency Act 1986 provides:
 "An application for an order under section 423 shall not be made in relation to a transaction except—
 (a) in a case where the debtor has been made bankrupt or is a body corporate which is being wound up or is in administration, by the official receiver, by the trustee of the bankrupt's estate or the liquidator or administrator of the body corporate or (with the leave of the court) by a victim of the transaction;
 (b) in a case where a victim of the transaction is bound by a voluntary arrangement approved under Part I or Part VIII of this Act, by the supervisor of the voluntary arrangement or by any person who (whether or not so bound) is such a victim; or
 (c) in any other case, by a victim of the transaction."
- (2) In the present case Mr Rajan Sohal had been made bankrupt by the order of 27 September 2021, so the relevant provision is s.424(1)(a), under which Mr Sahota required the leave of the court.
- (3) I was concerned that "the court" from which leave was required might have been the court dealing with Mr Rajan Sohal's bankruptcy. However, neither counsel argued that that was the case. Ultimately I was satisfied that the court simply meant the High Court, and that sitting as a Deputy Master in the High Court I had jurisdiction to grant leave under s.424(1).
- (4) Mr Anderson submitted that I should not grant leave because there was no application under s.423 before me which identified the grounds on which Mr Sohal claimed that the s.423 jurisdiction arose, why and in what way the jurisdiction should be exercised. I had and still have considerable sympathy with that submission. However:
- a. It appeared to me that it was clear that Mr Sahota's case under s.423 was that both (i) the creation in Mrs Veena Sohal of a charge or interest of £2.5 million in 31 Windsor Road and (ii) the increase in Mrs Pooja Sohal's beneficial interest in the property from 50% to 75% under the 2015 Deed were gifts or transactions at undervalues.
- b. I had in mind the overriding objective, and in particular the desirability of disposing of all the issues between the parties as to the interests which existed in 31 Windsor Road without the need for a further hearing.
- c. If the Deeds effected transactions at undervalues within s.423, then *prima facie* Mr Sahota would be a "victim" within the meaning of s.423(5). That is to say a person who was, or was capable of being, prejudiced by the transactions.

- (5) In the light of those considerations, on 25th May 2022 I said that I would give Mr Sahota leave under s.424 to make a claim under s.423, but required there to be a formal application for relief under s.423 which could be issued in due course.
- (6) At the outset of the second day of the hearing, on 26th May 2022 Mr Panton produced a draft re-amended version of the Part 8 Claim Form. This was disappointingly short of definition or detail. All it sought to do was to add a paragraph 4 to the amended Claim Form in the following terms:

“The determination of the First Defendant’s beneficial interest in 31 Windsor Road to include an order under section 423 Insolvency Act 1986 as the Court thinks fit relating to the following transactions:

- (a) The Deed of Trust dated 5th October 2012;
- (b) The Deed of Trust dated 17th August 2015; and
- (c) The Deed of Trust dated 17th May 2019

And to make any consequential order about any transaction affected by the above Deeds of Trust.”

- (7) Mr Anderson raised the question of whether the trustee in bankruptcy should be joined and complained about the lack of definition or detail.
- (8) Nevertheless I then granted leave under s.424 and gave Mr Sahota permission to amend the Part 8 Claim Form in accordance with the draft as quoted above.

165. On 5th October 2012 when the 2012 Deed was executed, Mr Rajan Sohal and Mrs Pooja Sohal had contracted to buy 31 Windsor Road for £1.2 million + SDLT and costs of purchase, making a total of £1,270,000. They did not complete the purchase until 10th January 2013. £500,000 of that £1,270,000 was provided by Bridgeco by way of loan secured by a legal mortgage.
166. Mrs Veena Sohal clearly gave some consideration for the 2012 Deed, so it did not effect a gift to her. Was it a transaction whereby the value in money or money's worth of the consideration provided by Mrs Veena Sohal to Mr Rajan Sohal, was significantly less than the value, in money or money's worth, of the consideration provided by Mr Rajan Sohal? For s.423 purposes, one looks at the value received from the point of view of the debtor effecting the transaction which is sought to be impeached under s.423. In the present case that is Mr Rajan Sohal.
167. What value did Mr Rajan Sohal obtain from the transaction? As explained above, the value provided by Mrs Veena Sohal under the 2012 Deed was:
 - (1) Mr Rajan Sohal alone obtained: £100,000 (in respect of the past re-financing of 26 Cedar Close); plus £1.1 million in respect of the past borrowings on 11a Devonshire Road = £1,200,000.
 - (2) Mr Rajan Sohal and Mrs Pooja Sohal jointly obtained: £36,833.41 (half the net proceeds of sale of 231 Rochford Road); plus £176,794.08 (half the net proceeds of sale of 26 Cedar Close); plus £325,000 (19 Morton Close) = £538,627.49, plus whatever the values were of the 2 DLF Phase 1 properties and the Bank of Baroda deposits.

168. Neither counsel made submissions to me as to the possible effects of Mrs Pooja Sohal's interests in the consideration given and received under the 2012 Deed, though Mr Panton did submit that because Mrs Pooja Sohal did not, on her own evidence, contribute financially to the purchase of 31 Windsor Road, in substance Mr Rajan Sohal gave her a half share in the equity in 31 Windsor Road.
169. In that context and generally it has to be borne in mind that the 2012 Deed, although entered into after the exchange of contracts for the purchase of 31 Windsor Road, was entered into about 3 months before completion of the purchase of 31 Windsor Road, and before Mr Rajan Sohal's and Mrs Pooja's beneficial interests in 31 Windsor Road came into existence. Mr Sahota, by his re-amended Part 8 Claim Form identified the three Deeds as the transactions to which he alleged that s.423 might apply. He did not identify the transfer of 31 Windsor Road into Mr Rajan Sohal's and Mrs Pooja Sohal's joint names as such a transaction either alone or in combination with the 2012 Deed.
170. An equitable charge made by deed implies an obligation on the chargeor to pay the amount secured by the charge. The agreement in the 2012 Deed was that Mrs Veena Sohal would "take" an equitable charge on 31 Windsor Road. The equitable charge, when created would imply an obligation on Mr Rajan Sohal and Mrs Pooja Sohal to pay the amount secured. The agreement to create the charge would therefore include an implied obligation to agreement to pay the amount secured. Without such an implied agreement, the value of the consideration provided by Mr Rajan Sohal and Mrs Pooja Sohal to Mrs Veena Sohal under the 2012 Deed would have been limited to the expected value of the equity in 31 Windsor Road, which at the time of purchase was some £770,000 and would have fluctuated in the future as the value of the property changed and as further money was borrowed on it secured by legal charges. £770,000 was much less than the value provided to Mr Rajan Sohal under the 2012 Deed, with the consequence that without the implied obligation to pay, the s.423(1) Insolvency Act 1986 condition would have been satisfied. However, as I have just said, there was an implied obligation on the part of Mr Rajan Sohal and Mrs Pooja Sohal to pay what was due under the charge. That implication is confirmed by Mr Rajan Sohal's description in his statement of 17 December 2021 of the £770,000 deriving from Mrs Veena Sohal which he said went into the purchase of 31 Windsor Road as "Veena Sohal loan".
171. Without more, and there is no "more" in the present case, the implied obligation on Mr Rajan Sohal and Mrs Veena Sohal to pay what was due under the charge would have been a joint obligation, though as between Mr Rajan Sohal and Mrs Pooja Sohal they would have been equally responsible for the liability.
172. Leaving aside the 2 DLF Phase 1 properties and the Bank of Baroda deposits for the moment, if the value of the consideration provided by Mr Rajan Sohal is calculated as his half share of the obligation in respect of £2.5 million owed jointly by him and Mrs Pooja Sohal under the 2012 Deed (i.e. £1,250,000), then the value of the consideration received by him (£1,200,000 received by him alone plus half of the £538,627.49 value received by him and Mrs Pooja Sohal jointly (i.e. £269,313.74) giving a total of £1,469,313.74) would exceed the value of the consideration provided by him, and the s.423(1) condition would not be satisfied.

173. If Mr Rajan Sohal's and Mrs Pooja Sohal's positions are looked at jointly: together they received $\pounds 1,200,000 + \pounds 538,627.49 = \pounds 1,738,627.49$ under the 2012 Deed which, subject to an allowance (if any) for the 2 DLF Phase 1 properties and the Bank of Baroda deposits, is $\pounds 761,372.52$ less than the $\pounds 2.5$ million obligation which they jointly incurred. On this approach, subject to a possible allowance for the 2 DLF Phase 1 properties and the Bank of Baroda deposits, the value of the consideration provided by Mr Rajan Sohal would be significantly less than that received by him and the s.423(1) condition would be satisfied.
174. In my judgment neither of those two ways of looking at the matter is wholly correct, though on the evidence the result in terms of undervalue is the same as under the "looking at jointly" approach. Under the 2012 Deed Mr Rajan Sohal and Mrs Pooja Sohal obtained different things and different values by way of consideration. The 2012 Deed not cause them to obtain benefits of equal value. On the value of consideration received by Mr Rajan Sohal side of the equation, in my judgment it is correct to say (and I hold) that the value received by him is the $\pounds 1,469,313.74$ figure comprising the $\pounds 1,200,000$ value received by him alone plus half of the $\pounds 538,627.49$ value received by him and Mrs Pooja Sohal jointly. For completeness he may also have received value from the 2 DLF Phase 1 properties and the Bank of Baroda deposits, but in the absence of evidence as to the values or amounts of these, I ignore them, both here and subsequently.
175. On the other side of the equation, in my judgment as a matter of analysis it is over simple to treat the value in money or money's worth of the consideration provided by Mr Rajan Sohal as being half of the joint obligation in respect of the $\pounds 2.5$ million equitable charge. S.423 (1)(c) is concerned with the value of the consideration provided, looked at from the debtor's, Mr Rajan Sohal's perspective.
176. Looked at from Mr Rajan Sohal's perspective, as between Mr Rajan Sohal and Mrs Pooja Sohal, although both would have been liable to Mrs Veena Sohal for the whole $\pounds 2.5$ million, as between them that liability would have been shared 50:50, so if Mrs Pooja Sohal had been good for the money, the value of the consideration given by Mr Rajan Sohal would have been half of the $\pounds 2.5$ million; i.e. $\pounds 1,250,000$. At the other extreme, if Mrs Pooja Sohal had no assets with which to fund her share of the joint and several obligation, in practical terms Mr Rajan Sohal would have had to fund the whole of the obligation and the value of the consideration given by Mr Rajan Sohal would have been the whole $\pounds 2.5$ million.
177. Mrs Pooja Sohal's financial status in 2012 was not put in evidence before me. The furthest the evidence went in that regard was in Mrs Pooja Sohal's statement of 17 December 2021 where she said that she did not own and never had owned property in the UK. It might be inferred from that qualified statement that she did own property elsewhere, but that is insufficient foundation for holding that she had substantial assets from which she could make a significant contribution to half of the $\pounds 2.5$ million owed to Mrs Veena Sohal.
178. Under the terms of the 2012 Deed Mrs Pooja Sohal was beneficially entitled to half of the $\pounds 538,627.49$ value received by her and Mr Rajan Sohal jointly. Half of that $\pounds 538,627.49$ is $\pounds 269,313.74$. That $\pounds 269,313.74$ would have been available to Mrs Pooja Sohal to pay her share of the $\pounds 2.5$ million liability to Mrs Veena Sohal; thereby reducing

the maximum £2,500,000 otherwise borne by Mr Rajan Sohal by £269,313.74 to £2,230,686.26. That £2,230,686.26 is £761,372.52 more than the £1,469,313.74 value received by Mr Rajan Sohal. £761,372.52 would be the amount of the undervalue.

179. What other assets or funds were or might have been or become available to Mrs Pooja Sohal to pay her share of the £2.5 million is to a large degree speculative. Mr Anderson submitted that the onus of proof on a claim under s.423 was on the applicant; in this case Mr Sahota. I accept that submission, but where, as here, clearly there were issues as to undervalue and intention, which would go to sham as well as to s.423, and there is evidence which the respondents could reasonably be expected to have obtained and presented to the court on those issues which it is not presented to the court, it is not so much a question of the onus of proof, as an inference from the absence of evidence that the evidence does not exist. In the specific context which I am now considering, I would have expected to see evidence of the value of the 2 DLF Phase 1 properties and the Bank of Baroda deposits. Such evidence has not been forthcoming and accordingly I have discounted there being any value in the 2 DLF Phase 1 properties and the Bank of Baroda deposits. I would also have expected to see far more in the way of detail and documentary evidence as to values and figures than was put in by or on behalf of the Defendants, including, at least in broad terms, evidence of Mrs Pooja Sohal's ability in 2012 to meet her share of the joint obligation undertaken under the 2012 Deed.
180. Therefore, in the absence of evidence as to Mrs Pooja Sohal's ability in 2012 to meet her share of the joint obligation undertaken under the 2012 Deed, I infer that, except for her £269,313.74 interest in the moneys provided from Mrs Veena Sohal's properties, she had no assets of her own of significant value.
181. It follows that the value of the consideration given by Mr Rajan Sohal under the 2012 Deed was £2,500,000 minus £269,313.74. That equals £2,230,686.26. The value to him of the consideration provided by Mrs Veena Sohal was £1,469,313.74. The amount of the undervalue was therefore £2,230,686.26 minus £1,469,313.74 which equals £761,372.52. The s.423(1)(c) condition was therefore satisfied to that extent.
182. For s.423(3) to be engaged, the relevant purpose of Mr Rajan Sohal did not have to relate to the person who is making the application. S.423(3) is widely worded. It refers to "a person who is making, or at some time make a claim against him". It does not require that person to be identified at the time of the transaction.
183. Nor is it necessary for the purpose specified in s.423(3) Insolvency Act 1986 to be the only or the dominant purpose of a transaction in order for the requirements of s.423(3) to be satisfied. It is sufficient if the relevant purpose is "a" purpose (*JSC BTA Bank v Ablyazov* [2018] EWCA Civ 1176, [2019] BCC 96, per Leggatt LJ at paras.13 and 14).
184. The only specific allegation about possible creditors in 2012 and a possible trigger for the creation of the 2012 Deed was in relation to Acacia Securities. However, I have already found that the case in respect of Acacia was not made out. Even in the absence of an identified creditor in 2012, a general intention to put assets beyond the reach of creditors would suffice for the s.423(3) condition to be satisfied.
185. In 2012 Mr Rajan Sohal was already in business. His evidence in cross-examination was that when 231 Rochford Gardens and 26 Cedar Close were sold in 2012, a deed of

trust would be needed because there would be no properties left in Mrs Veena Sohal's name. The 2012 Deed was therefore necessary to protect her. I accept that evidence as evidence of at least one purpose in Mr Rajan Sohal in effecting the 2012 Deed transaction. It is consistent with the sales of the properties and with Mrs Veena Sohal otherwise losing such security as she otherwise had for the moneys provided out of them and otherwise to Mr Rajan Sohal and Mrs Pooja Sohal.

186. The effecting of the implementation of the purpose of protecting Mrs Veena Sohal by providing her with security certainly had the result of putting assets beyond the reach of Mr Rajan Sohal's unsecured creditors or of prejudicing them. In my judgment the effecting of that result formed part of the purpose; it was not merely incidental to it. That is because the essence of providing security is to give the recipient priority over unsecured creditors.
187. Hence in my judgment the transaction effected by Mr Rajan Sohal by the 2012 Deed in favour of Mrs Veena Sohal was effected for the purpose of putting assets beyond the reach of a person who is making, or may at some time make, a claim against Mr Rajan Sohal or of otherwise prejudicing the interests of such a person in relation to the claim which he is making or may make within the meaning of s.423(3) Insolvency Act 1986.
188. In order to have standing as a "victim" of the transaction within the meaning of s.423(5) Insolvency Act 1986 Mr Sahota has to be a person who "is or is capable of being prejudiced by that transfer"?
189. On the figures and valuations mentioned near the beginning of this judgment it is possible that after payment out of the proceeds of any sale of 31 Windsor Road of the sums due to OneSavings Bank and Castle Trust (a total of a minimum of £2,479,987.35) there will be no equity left for Mrs Veena Sohal's beneficial interest under the 2019 Deed (I anticipate by saying that I find below that the 2019 Deed converted Mrs Veena Sohal's interest from an equitable charge to a proprietary beneficial interest which took precedence over Mr Rajan Sohal's and Mrs Pooja Sohal's beneficial interests).
190. Thus, if the value of 31 Windsor Road is less than the sums owed to OneSavings Bank and Castle Trust (a total of a minimum of £2,479,987.35) Mr Rajan Sohal's beneficial interest in the property would be non-existent, and Mr Sahota's charging order in respect of it would be worthless, whether or not the transaction effected by the 2012 Deed had taken place or Mrs Veena Sohal had an equitable charge over it or a beneficial interest in it. On that hypothesis Mr Sahota would not in fact be prejudiced by the transaction effected by the 2012 Deed. However, although that would be a possible result, depending on the value of the property and the amounts outstanding to OneSavings Bank and Castle Trust from time to time, it is also possible that he would be. Accordingly I consider that Mr Sahota is capable of being prejudiced by the transaction effected by the 2012 Deed and qualifies as a "victim" within the meaning of s.423(5), albeit that ultimately he may not be prejudiced by it.
191. S.424(2) Insolvency Act 1986 provides that an application made under any of the paragraphs of subsection (1) is to be treated as made on behalf of every victim of the transaction. In the present context that means Mr Sahota and every unsecured creditor of Mr Rajan Sohal.

192. Under s.423(2) I may make such order as I think fit for (a) restoring the position to what it would have been if the transaction effected by the 2012 Deed had not been entered into, and (b) protecting the interests of persons who are victims of the transaction. The object of ss.423 to 425 is to remedy the avoidance of debts. The “and” between paragraphs (a) and (b) of s.423(2) is to be read conjunctively and not disjunctively. The power given by s.423(2) is not a power to restore the position generally, but in such a way as to protect the victims’ interests; in other words, by restoring assets to the debtor to make them available for execution by the victims (*Chohan v Saggat* [1994] 1 BCLC 706, 714, per Nourse LJ).
193. If the transaction had not been entered into by reason of the giving a charge of £2.5 million causing it to be a transaction at an undervalue, I consider it likely that in order to give Mrs Veena Sohal the intended protection that a similar charge would have been given for the amount of the value actually provided by Mrs Veena Sohal. That is to say, on the basis of my analysis above, a charge for £2.5 million minus the £761,372.52 amount of the undervalue. Having regard to the purpose of the transaction, in order to give her protection which was not susceptible to attach under s.423 there would have had to have been no undervalue. Therefore in my judgment the position would be restored to the position which would have existed and the victims would be protected against the undervalue mischief of the transaction if the amount by which the transaction was at an undervalue (£761,372.52) is removed from Mrs Veena Sohal’s security. I will so order.
194. I add that the Limitation Act 1980 does not prevent me from granting relief under s.423 Insolvency Act 1980 in relation to the transaction effected by the 2012 Deed. On the authorities if the s.423 claim is for a sum of money, the limitation period is 6 years under s.9 Limitation Act 1980 as a claim to recover a sum of money by virtue of an enactment. Other claims are subject to a 12 year limitation period as actions upon a specialty under s.8 Limitation Act 1980. The claim in the present case is not a claim for the payment of a sum of money, or at least the relief which I am granting is not an order for the payment of a sum of money. Thus, the limitation period is the 12 year period. The earliest possible starting date for that 12 year period is the date of the 2012 Deed (5 October 2012). The latest possible end date is the date of the amendment to the Part 8 Claim Form. That may not formally yet have occurred, but it is likely to occur well within the 12 year period from 5 October 2012. This timing makes it unnecessary for me to consider or rule upon the subtleties of whether the limitation period could start to run before Mr Sahota became a creditor of Mr Rajan Sohal. It is possible that the amendment for which I have given permission will never be effected. To cover off that possibility I will make my s.423 order in respect of the transaction effected by the 2012 Deed (including my order below in respect of the transaction effected with Mrs Veena Sohal under the 2019 Deed) conditional on compliance by Mr Sahota before the 12th anniversary of the 2012 Deed, that is by 5th October 2024, with the requirements of CPR Practice Direction 17 paragraphs 1.3 (filing) and 1.5 (service). Accordingly limitation is not a bar to my granting relief under s.423 as above.

The 2015 Deed

195. I have already held that the witness signatures to the 2015 Deed were not the signatures of the purported witness and that therefore the 2015 Deed was not in fact a deed. It may have operated as an agreement between Mr Rajan Sohal and Mrs Pooja Sohal as to the beneficial shares in which they owned 31 Windsor Road, but there is no evidence

that Mrs Pooja Sohal gave any consideration for that agreement or that she acted to her detriment in reliance on it. Accordingly the agreement did not alter the pre-existing 50:50 beneficial ownership of the property as between Mr Rajan Sohal and Mrs Pooja Sohal. It is therefore unnecessary to decide whether the 2015 Deed was a sham or should be set aside or otherwise dealt with under s.423 Insolvency Act 1986.

2019 Deed made after the date which it bears?

196. In my judgment there is no evidence to support the submission that the 2019 Deed was made after the date which it bears. On the contrary, the 10 August 2019 Land Registry Entries for 31 Windsor Road show that a restriction was entered on 25 June 2019 in relation to the Deeds dated 5 October 2012 and 17 May 2019 (the date of the 2019 Deed). The evidence was that the 2019 Deed was drafted by a solicitor and there is a copy of it certified by a solicitor. The restriction was then registered in respect of it reasonably promptly. In the light of those matters I conclude that the 2019 Deed was executed on the date specified on it; that is 17 May 2019.

Interpretation of 2019 Deed

197. I have already set out the critical clause, but to repeat, it provided:
“VEENA SOHAL shall be entitled to the first £2,500,000.00 (Two Million Five Hundred Thousand Pounds Only) of any net proceeds of sale as shall remain after payment and discharge of all charges, borrowings and costs of sale.”
198. The most relevant background is that set out above in relation to the 2012 Deed, plus:
(1) The terms and effect of the 2012 Deed itself.
(2) The fact that by May 2019 Mr Rajan Sohal was coming under increasing financial pressure as shown by, amongst other things, the sending to him by Mr Sahota of a letter before action in the QBD proceedings.
199. Mr Panton’s submission was very simple. It was that Mr Sahota’s charging order constituted a charge over 31 Windsor Road and that his charge was a charge within the meaning of the clause, with the consequence Mrs Veena Sohal was only entitled to her £2.5 million after the discharge of, amongst others, Mr Sahota’s charge.
200. Mr Anderson submitted that:
(1) If Mr Panton’s interpretation was correct, that would render Mrs Veena Sohal’s security worthless, and would leave her in the position of an unsecured creditor of Mr Rajan Sohal.
(2) Given that the 2012 Deed was executed in circumstances where Mr Rajan Sohal was in the process of acquiring mortgage finance to fund the purchase of 31 Windsor Road, what was intended was that Mrs Veena Sohal’s equitable charge would be subject to registered charges which were used to acquire the property; not that it would be subject to any subsequent equitable charges.
201. Neither Mr Panton nor Mr Anderson were attracted by my suggestions in the course of argument, that “charges” were limited to charges voluntarily created by Mr Rajan Sohal and Mrs Pooja Sohal or to charges to secure borrowings for the purpose of acquiring and re-developing 31 Windsor Road.

202. In my view Mr Anderson's first point is very powerful. It is almost made by the submission that Mr Panton made in his short opening before the evidence that the drafting of the 2019 Deed might not have achieved what it set out to achieve. In interpreting the Deed my role is to ascertain the meaning of the words used, and hence the parties' intentions viewed objectively, against the admissible background material. The existence and effect of the 2012 Deed is admissible background material. If Mr Panton's interpretation was correct, not only would that render Mrs Veena Sohal's security worthless and leave her in the position of an unsecured creditor of Mr Rajan Sohal as per Mr Anderson's submission, but also it would mean that the effect of the 2019 Deed would have been to remove all the remaining security which Mrs Veena Sohal had under the 2012 Deed.
203. By 2019 Mrs Veena Sohal's security under the 2012 Deed had been reduced by reason of the re-mortgaging of the property in favour of OneSavings Bank Ltd and Castle Trust. According to Mr Rajan Sohal the money borrowed commercially to purchase 31 Windsor Road was £500,000 from Bridgeco. The Land Registry entries for 31 Windsor Road do not show a registered charge in favour of Bridgeco. They show a charge dated 7 July 2017 in favour of OneSavings Bank Plc and a registered charge dated 10 November 2017 in favour of Castle Trust Capital Ltd. Those registered charges were created long after the completion of the purchase of 31 Windsor Road on 17 January 2013. As registered charges they would have had priority over Mrs Veena Sohal's equitable charge. They were registered charges which existed at the time the 2019 Deed was entered into.
204. Although Mrs Veena Sohal's security had already been reduced by the time of the 2019 Deed and was capable of being further reduced by Mr Rajan Sohal and Mrs Pooja Sohal creating further registered charges over the property, no reason was suggested, and in my judgment none existed as to why the Defendants should have intended that the 2019 Deed should have the effect of extending the possible reduction of Mrs Veena Sohal's security by giving priority to unsecured creditors of Mr Rajan Sohal and Mrs Pooja Sohal who obtained charging orders in respect of their debts. That consideration mitigates against the words used in the 2019 Deed.
205. In my judgment the words used can and should be interpreted so as not to have that effect. In my judgment that can be achieved by interpreting the "charges" after which Mrs Veena Sohal's interest in the proceeds of sale was to come as meaning charges voluntarily created by Mr Rajan Sohal and Mrs Pooja Sohal. I do not agree with Mr Anderson's submission that "charges" should be restricted to registered charges which were used to acquire the property. As explained above, money from Bridgeco was used to acquire the property, but by the time of the 2019 Deed its charge had been replaced by registered charges in favour of OneSavings Bank and Castle Trust. Thus, by the time of the 2019 Deed there were no registered charges which were used to acquire the property. In those circumstances if Mr Anderson's submission was correct, in theory the net proceeds from which Mrs Veena Sohal's interest would be taken would not be reduced by the amounts of the OneSavings Bank's and Castle Trust. In my judgment that is unlikely to have been an intended result.
206. Independently of the arguments considered in the immediately foregoing paragraph, and more simply, in my judgment Mr Sahota's charging order is not within the meaning of "charges" in the relevant clause of the 2019 Deed by reason of the following:

- (1) Neither the charging order nor the equitable charge to which it is deemed to be of “like effect” by s.3(4) Charging Orders Act 1979 are actual charges on the property.
- (2) In my judgment “charges” in the relevant clause of the 2019 Deed refers to charges on the property. The 2019 Deed deals with how the net proceeds of sale are to be distributed. Looked at in practical terms, the property would be sold. On receipt of the gross sale proceeds, the solicitors acting for the vendors on the sale would pay off the registered charges shown on the register and the costs of sale; they would then hold the net proceeds of sale in their hands to be applied in accordance with the terms of the 2019 Deed, with the charging order and its deemed equitable charge only attaching to Mr Rajan Sohal’s interest in the net proceeds of sale.

2019 Deed a sham?

207. The reasonably prompt registration of the restriction in respect of the 2019 Deed mitigates strongly against its having been intended to be a sham.
208. The strongest evidence for sham is that of Mrs Pooja Sohal in her statement of 17 December 2021 and under cross-examination in relation to the 2015 Deed. In that statement she stated that the 2015 Deed was prepared by BP Collins solicitors on instructions from Mr Rajan Sohal “in order to make it easier to borrow on 31 Windsor Road.” She stated that Mr Rajan Sohal told her that as she was younger, her having a greater share under the 2015 Deed would mean that a mortgage lender would agree to lend them a larger sum of money than they would do otherwise. Under cross-examination she said that it was entered into so that it could be represented to the mortgage company that she had a bigger share and that it would make it easier to borrow on 31 Windsor Road if she was getting the loan. She was not asked about this in relation to the 2019 Deed and she did not give similar evidence in relation to the 2019 Deed. Mrs Pooja Sohal was asked about the removal of the restriction by the solicitors, Axiom Stone, but not about its imposition. Mr Rajan Sohal said that Axiom Stone were looking to get re-financing for him and that the lender wanted the restriction on and then, in 2020, wanted it off again.
209. A strange feature of the 2019 Deed is why it was produced when it was. Mr Panton put it to Mr Rajan Sohal and submitted that the 2019 Deed was created on 17 May 2019 because Mr Rajan Sohal was coming under financial pressure and in particular because he had received Mr Sahota’s letter before action in the QBD proceedings shortly before then on 11 March 2019. Mr Rajan Sohal said that that was a coincidence, but did not explain what the reason was for the creation of the 2019 Deed. Before the execution of the 2019 Deed Mrs Veena Sohal’s £2.5 million was protected by the 2012 Deed and, subject to the question of its witnessing and execution, the 2015 Deed dealt with Mrs Pooja Sohal’s beneficial interest. The 2019 Deed was therefore unnecessary unless its parties had in mind doubts as to the validity of one or both of the earlier Deeds. Having regard to my finding as to the purported signature of Anita Sehgal on the 2015 Deed, they would have been right to have those doubts. Further, they must have known that the purported signature of Anita Sehgal on the 2015 Deed was not her signature and hence that, whatever the legalities, doubts might have been cast on the validity of the 2015 Deed.

210. I find the creation of the 2019 Deed strange and the explanations in relation to it unsatisfactory; but in my judgment it does not follow that it was a sham. In my judgment the registration of the restriction in relation to it on 25 June 2019 establishes that it was not intended by Mr Rajan Sohal to give to third parties or to the court the appearance of creating between the parties legal rights and obligations different from the actual legal rights and obligations (if any) which the parties intend to create. The 2019 Deed was therefore not a sham at that time.
211. If the 2019 Deed was not a sham in June 2019, the fact that later its existence might have been sought to be concealed from prospective lenders by the removal of the restriction does not cause it to become a sham. That is for two reasons:
- (1) If a document was not a sham when it was created, it cannot subsequently become one, even if all its parties wish at a later date to use it to create a false impression.
 - (2) For the same reason as I have explained above in relation to the 2012 Deed; concealing the 2019 Deed would not involve using it to mislead. The misleading would consist of producing title to and making statements as to the beneficial ownership of the property without revealing the beneficial interests declared by the 2019 Deed; but that would not involve using the 2019 Deed to mislead.

Did the 2019 Deed effect a transaction within the scope of s.423 Insolvency Act 1986?

212. Interpreted against the background of the existence of the 2012 Deed, I consider that the provisions of the 2019 Deed were intended to and did replace the provisions of the 2012 Deed. Thus, upon the execution of the 2019 Deed, the 2012 Deed ceased to be effective and was replaced by the provisions of the 2019 Deed.
213. So far as Mr Rajan Sohal and Mrs Veena Sohal are concerned, having regard to my conclusion that the 2012 Deed was valid and should not be set aside, prior to my ordering the amount of the undervalue being removed from Mrs Veena Sohal's security, the 2019 Deed was, for practical purposes, neutral. The only difference being that what, in my judgment had been an equitable charge under the 2012 Deed was converted to a beneficial interest under the 2019 Deed. It merely replaced the £2.5 million charge or interest of Mrs Veena Sohal which already existed under the 2012 Deed. Accordingly, subject to the effect of my order in respect of the transaction effected by the 2012 Deed, the 2019 Deed did not effect a gift or transfer at an undervalue as between Mr Rajan Sohal and Mrs Veena Sohal, and the s.423 Insolvency Act 1986 jurisdiction would not be engaged in respect of that part of the transaction.
214. I have difficulty with the concept that by reason of my order in respect of the undervalue in the transaction effected by the 2012 Deed, retrospectively the 2019 Deed became a deed which effected a transaction at an undervalue. I think the better analysis and the analysis which I apply is as follows: on the footing that the 2019 Deed did not effect a transaction at an undervalue, my order in respect of the transaction effected by the 2012 Deed would not restore the position to what it would have been if the 2012 transaction had not been entered into. That is because the part of the 2019 Deed dealing with Mrs Veena Sohal was intended to repeat or replace the £2.5 million charge or interest of Mrs Veena Sohal which already existed under the 2012 Deed with an equivalent interest under the 2019 Deed. Therefore in order to restore the position to what it would have been if the 2012 Deed transaction had not been entered into and to protect the interests

of the persons who are victims of that transaction, I need to cause the value of the consideration provided by Mr Rajan Sohal under the 2019 Deed to Mrs Veena Sohal to be reduced by the amount by which I have reduced the value provided by him to her under the 2012 Deed transaction; that is to say by £761,372.52. I will do so by ordering £761,372.52 to be removed from Mrs Veena Sohal's beneficial interest under the 2019 Deed; thereby reducing her beneficial interest in the net proceeds of sale of 31 Windsor Road as specified in the 2019 Deed from £2,500,000 to £1,738,627.48.

215. So far as Mr Rajan Sohal and Mrs Pooja Sohal are concerned, having regard to my conclusion that the 2015 Deed was ineffective to transfer a 25% beneficial interest in the property from Mr Rajan Sohal to Mrs Pooja Sohal, the 2019 Deed did effect a transfer of 25% of the balance of the net proceeds of sale of 31 Windsor Road as should remain after payment of all charges, borrowings and the costs of sale.
216. It is probable that even in May 2019, after taking into account the then existing secured borrowings on 31 Windsor Road and Mrs Veena Sohal's £2.5 million equitable charge or interest that there was little or no equity in 31 Windsor Road, and hence that the gift or transfer of the 25% beneficial interest by Mr Rajan Sohal to Mrs Pooja Sohal was a transfer of no value beyond the speculative possibility that a future date there might be some equity in the property. Nevertheless in my judgment that possibility means that there was an effective gift by Mr Rajan Sohal to Mrs Pooja Sohal of 25% of the net equity in the property within the meaning of s.423(1)(a) Insolvency Act 1986, however little that might have been worth.
217. There were, as I have set out above, somewhat conflicting accounts of when and why a 25:75 split of the beneficial ownership of 31 Windsor Road was agreed. In my judgment those reasons, even to the extent that they actually existed are insufficient to oust the inference from the timing of the creation of 2019 Deed soon after Mr Sahota's letter before action, that at least one of the purposes of causing the 25:75 split effected by the 2019 Deed was to put the 25% share which was transferred from Mr Rajan Sohal to Mrs Pooja Sohal beyond the reach of Mr Rajan Sohal's creditors or otherwise to prejudice his creditors or potential creditors. Accordingly I am satisfied as to the requirements of s.423(3) as regards the transfer of a 25% beneficial interests in 31 Windsor Road.
218. On the figures and valuations mentioned near the beginning of this judgment it is very possible that after payment out of the proceeds of any sale of 31 Windsor Road of the sums due to OneSavings Bank, Castle Trust and Mrs Veena Sohal (the latter as reduced by my order from £2.5 million to £1,738,627.48) there will not be any proceeds remaining for sharing between Mr Rajan Sohal and Mrs Pooja Sohal and, in the case of Rajan Sohal's share, the satisfaction or part satisfaction of Mr Sahota's judgment as secured by his charging order. However, it is possible. Accordingly I consider that Mr Sahota is capable of being prejudiced by the transfer of the 25% beneficial interest and to that extent is a "victim" within the meaning of s.423(5) so far as the transfer of 25% to Mrs Pooja Sohal is concerned.
219. Under s.423(2) I may make such order as I think fit for (a) restoring the position to what it would have been if the transfer of the 25% had not been entered into, and (b) protecting the interests of persons who are victims of the transaction. S.425(1)(a)

provides that without prejudice to the generality of s.423, an order made under that section with respect to a transaction may, amongst other things, require any property transferred as a part of the transaction to be vested in any person, either absolutely or for the benefit of all the persons on whose behalf the application for the order is treated as made.

220. In my judgment the position would be restored to the position which would have existed if the transfer of the 25% had not been effected and the interests of persons who are victims of the transfer of the 25% would be protected if I were to order the 25% share which I have held was transferred by Mr Rajan Sohal to Mrs Pooja Sohal to be re-vested in Mr Rajan Sohal and to be subject to Mr Sahota's charging order. There is no evidence that the position as to the taking out of mortgages or the imposition of charges on 31 Windsor Road or beneficial interests in it would have been any different had Mr Rajan Sohal and Mrs Pooja Sohal held the beneficial interest between them at all times on a 50:50 basis or that any other creditors would have obtained charging orders or that the property would otherwise have been dealt with differently had it been known that Mr Rajan Sohal and Mrs Pooja Sohal had been 50:50 beneficial owners rather than 75:25 beneficial owners. Nor is there any evidence that Mrs Pooja Sohal would have acted in any way differently had she known that she only had a 50% rather than a 75% beneficial interest in the property. Accordingly I consider that such an order would be the appropriate way in which to exercise the s.423 jurisdiction in respect of the transfer of the 25% by the 2019 Deed and I will so order.

Conclusion

221. My conclusions on the issue to be tried as to the validity and effect of three Deeds of Trust are that:
- (1) The 2012 Deed was originally valid and effective according to its terms to create an equitable charge over 31 Windsor Road in favour of Mrs Veena Sohal for £2.5 million. That effect will be altered by the order which I make under s.423 Insolvency Act 1986 that £761,372.52 is removed from Mrs Veena Sohal's security.
 - (2) Upon the execution of the 2019 Deed, the 2012 Deed, whether as altered by my s.423 Order or otherwise, ceased to be effective and was replaced by the provisions of the 2019 Deed.
 - (3) The 2015 Deed was not a deed. It was ineffective to change the pre-existing beneficial interests of Mr Rajan Sohal and Mrs Pooja Sohal in 31 Windsor Road either from 50:50 to 25:75 or to do anything else.
 - (4) The 2019 Deed was originally valid and effective according to its terms. Its effects were:
 - a. To transform Mrs Veena Sohal's equitable charge over 31 Windsor Road for £2.5 million under the 2012 Deed into a beneficial interest in £2.5 million of the net proceeds of sale of the property under the trust for sale which it created of the property; such net proceeds of sale to be calculated as the gross proceeds of sale less (in the following order) (i) the sums secured by OneSavings Bank's registered charge; (ii) the sums secured by Castle Trust's registered charge; (iii) the costs of sale.
 - b. Subject to (A) the deduction of (i) the sums secured by OneSavings Bank's registered charge; and (ii) the sums secured by Castle Trust's registered charge; (iii) the costs of sale and (B) the effect of my orders under s.423 Insolvency Act 1986, to transfer a 25% beneficial interest

in 31 Windsor Road and its net proceeds of sale from Mr Rajan Sohal to Mrs Pooja Sohal.

- (5) The 2019 Deed remains valid and effective, but its effects are altered by the orders which I make under s.423 Insolvency Act 1986 in respect of the transactions effected by it.
 - (6) I make the following orders under s.423 Insolvency Act 1986, of which those concerning Mrs Veena Sohal's interests under the 2012 and 2019 Deeds are conditional on Mr Sahota complying, before 5th October 2024, with the requirements of paragraphs 1.3 (filing) and 1.5 (service) of CPR Practice Direction 17:
 - a. That £761,372.52 be removed from the £2.5 million figure which was secured by Mrs Veena Sohal's equitable charge under the 2012 Deed, thereby reducing the sum which was secured by that charge from £2,500,000 to £1,738,627.48.
 - b. That £761,372.52 be removed from Mrs Veena Sohal's beneficial interest under the 2019 Deed; thereby reducing her beneficial interest in the net proceeds of sale of 31 Windsor Road as specified in the 2019 Deed from £2,500,000 to £1,738,627.48.
 - c. That the 25% beneficial share which I have held was transferred by Mr Rajan Sohal to Mrs Pooja Sohal by the 2019 Deed be re-vested in Mr Rajan Sohal.
222. As a consequence of the above Mr Sahota's charging order will attach to Mr Rajan Sohal's 50% beneficial interest in the property or its net proceeds of sale; that 50% being 50% of the figure resulting from the following calculation:
- (1) The gross proceeds of sale. Less,
 - (2) In the following order: (i) the sums secured by OneSavings Bank's registered charge; (ii) the sums secured by Castle Trust's registered charge; (iii) the costs of sale. Less
 - (3) £1,738,627.48 in respect of Mrs Veena Sohal's £1,738,627.48 beneficial interest under the 2019 Deed as altered by my s.423 Insolvency Act 1986 order.
223. Depending on the values of the property and its sale proceeds, the amounts secured by OneSavings Bank's and Castle Trusts's registered charges and the costs of sale, that 50% beneficial interest of Mr Rajan Sohal may or may not prove to be worth little or nothing.