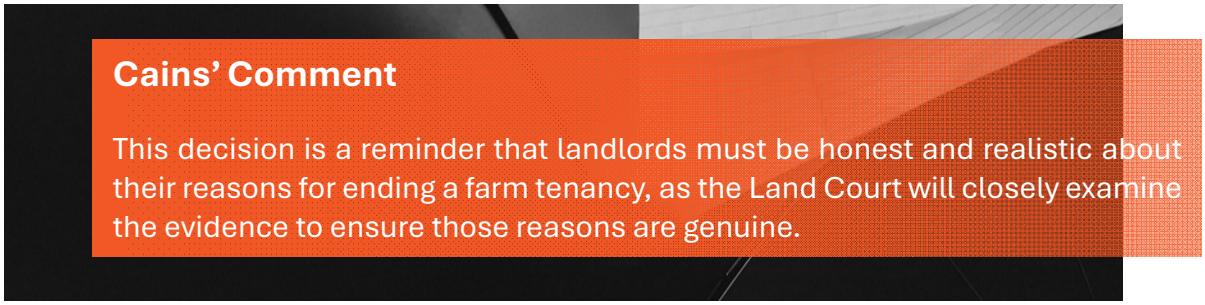
Cains' Judgment Journal: *Comment from Cains on Isle of Man Judgments*

Agricultural Holdings Act – Notice to Quit - Genuineness



Cains' Comment

This decision is a reminder that landlords must be honest and realistic about their reasons for ending a farm tenancy, as the Land Court will closely examine the evidence to ensure those reasons are genuine.

Alder and Alder v Corkish and Corkish, Land Court, 18 February 2026 (reported in March 2026)

In this case the Court considered whether a notice to quit served on long-standing farming tenants should be allowed to take effect.

The landlords had served a notice in November 2022, asking the tenants to leave Ballacross Farm by November 2024. Under the law, the Land Court must normally agree to such a notice unless it is satisfied, amongst other things, that the landlord's stated reasons are not genuine, or that granting the notice would cause greater hardship to the tenants than refusing it. The key issue in this case was whether the landlords' reasons for ending the tenancy were genuine.

In reaching its decision, the Court relied on guidance from the earlier case of *In the Matter of the Application of Kelly* [1972–1977] MLR 146 which confirmed that the Court should look at all the evidence and decide what is more likely than not to be true. It also made clear that the Court is entitled to consider whether a landlord has realistically shown the ability or intention to carry out their stated plans.

The Court found several problems with the landlords' explanation. These included the fact that the landlord had not visited the farm, had seriously underestimated the costs of running it, and had claimed that his son would farm the land even though the son had moved overseas, had no clear plans to return, and had no relevant training. The Court concluded that the real reason for serving the notice was to gain access to the farmhouse for residential use, rather than to farm the land.

As a result, the Land Court decided that the landlords' reasons were not genuine and refused to consent to the notice to quit. Since that finding resolved the case, the Court did not go on to consider the other arguments raised.

The full judgment can be found at: https://www.judgments.im/content/LC151-270226.pdf

S61 Trustee Act 1961 – Momentous Decisions

Cains' Comment

This decision highlights that trustees who act prudently and can show a real, rather than "fanciful", risk will generally be supported by the Court.

C (as Trustee) v D, A and B, Civil Division, Chancery Procedure, 17 December 2025 (reported 7 April 2026)

In this case the Court was asked to approve a trustee's decision to hold back part of a beneficiary's entitlement to cover a possible future tax bill.

It concerned long-running and difficult disputes between members of a family involved in several trusts. The trustee applied to the Court under section 61 of the Trustee Act 1961, asking for confirmation that it was right to make a retention from assets due to be paid to D. The purpose of the retention was to protect the trust against a potential tax claim from Country G, linked to the late settlor's part-time residence there and uncertainty about whether he was treated as tax-resident in certain years.

Two beneficiaries, A and B, supported the trustee's approach. They argued that the application fell squarely within the principles set out in *Public Trustee v Cooper* [2001] WTLR 901, which allows trustees to seek the Court's approval for major or "momentous" decisions.

D opposed the application, arguing that the trustee was not exercising discretion but dealing with a strict entitlement, that the tax risk was unrealistic, and that the trustee's decision-making process was flawed. She also suggested the Court, not the trustee, should decide whether any money should be held back.

Deemster[1] Corlett heard detailed and conflicting evidence about how long the settlor had spent in Country G in different years and how local tax rules worked. Records were unclear, memories differed, and in some years the settlor appeared to be close to the maximum days allowed before tax residence might arise. It was argued that this meant there was a real possibility that the tax authorities in Country G could treat the settlor as resident and raise a claim against the trust.

The trustee chose to retain funds rather than rely on an indemnity from D, largely because of concerns about whether any future claim could be recovered from her, given her financial position and refusal to provide security. The Court accepted this was a sensible and realistic approach.

Relying on *Close Trustees (Switzerland) SA v Vildosola* [2008] EWHC 1267, the Court confirmed it had full power to apply *Public Trustee v Cooper* in this situation. It also referred to *Concord Trust v Law Debenture Corporation* [2005] WLR 1591, which makes clear that trustees do not need to ignore a risk simply because it is uncertain - only risks that are purely fanciful can be disregarded.

The Court agreed with the trustee's assessment that the tax risk was more than fanciful and approved the decision to retain funds from D's appointment. The trustee's decision was therefore approved under the Trustee Act 1961, with the issue of costs left to be dealt with separately.

The full judgment can be found at: https://www.judgments.im/content/CHP_ANON-171225.pdf

Gifts – Presumption of Advancement - Cohabitation

Cains' Comment

This case illustrates that Courts will look carefully at the facts of payments between cohabitants and will not assume money was a gift, even where there was no written agreement.

Murtagh v Mears (aka) Plumley, Civil Division, Summary Procedure, 31 March 2026

In this case, the Court had to decide whether money paid by one partner to the other during a period of living together should be paid back after the relationship ended. The legal background was already well established in *Jolly v Turnbull* (2012), where Deemster Needham explained how Courts should approach disputes of this kind. The Court also confirmed that the principle from *Chapman v Jaume* [2012] EWCA Civ 476 still applies, meaning there is no automatic assumption that money transferred between cohabiting partners is a gift.

The dispute arose after the Claimant sold his property in April 2023, receiving around £45,000. In the same month, he transferred c. £40,500 to the Defendant. The Claimant said this money was effectively a short-term loan to help the Defendant and that there was a verbal agreement that it would be repaid. The Defendant disagreed, arguing that the funds were used for everyday living costs, legal fees, and shared holidays, and that there was never any intention for the money to be returned.

There was no written agreement and no clear repayment plan, so applying the approach set out in *Jolly v Turnbull*, the Deemster considered what was more likely than not to have been agreed.

The Court ultimately decided that the full amount transferred was not an outright gift. However, it also accepted that part of the money had been intended to cover legal fees and holidays, with no expectation of repayment. Taking this into account, judgment was given in favour of the Claimant for £17,864.03.

Please note that this note does not constitute legal advice but is provided as non-reliance guidance only. For more information on Isle of Man Litigation Law, please contact: Robert Colquitt, Tara Cubbon-Wood or Charles Williams.

Reference

[1] The term used to refer to judges in the Isle of Man judiciary.

Charles Williams – Senior Associate