



## *Kinglsey v Kingsley [2020] EWCA Civ 297 (Ch)* *Court of Appeal Judgment handed down*

Yesterday the Court of Appeal handed down judgment in *Kingsley v Kingsley* [2020] EWCA Civ 297 (Ch). The ruling provides welcome clarity as to the court's discretion under s14 of the Trusts of Land and Appointment of Trustees Act 1996 (#TOLATA) to order that a property held on trust be sold to one of the beneficiaries (as happened in *Bagum v Hafiz* [2016] EWCA Civ 801). This is contrary to the 'usual order' that the property be sold on the open market with the beneficiaries having liberty to bid.

*Kingsley* confirms that 'Bagum orders' are not governed by any valuation threshold: the court need not be sure that the sale price set is at or above what could be obtained on the open market. The risk that the property might be sold at an undervalue is simply one of the discretionary factors which the court must take into account when determining the appropriate order. Further, such orders are not contrary to Article 1 of Protocol 1 of the Human Rights Convention. Provided the discretion under s15 is properly exercised, there is no deprivation of property

as the trustees will receive the value of the property as determined by the court.



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