

TRANSCRIPT OF JUDGMENT

Ref. BL-2019-001850

Neutral Citation Number: [2021] EWHC 3736 (Ch)
IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

Rolls Building,
7 Rolls Buildings
Fetter Lane
London, EC4A 1NL

18 October 2022

Before:

THE HONOURABLE MR JUSTICE FANOURT

IN THE MATTER OF

MISS LALMALEK AL BULUSHI (Claimant)

-v-

PARATUS AMC LIMITED (Defendant)

THE CLAIMANT did not attend and was not represented
MISS E BETTS appeared on behalf of the Defendant

Approved Judgment

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MR JUSTICE FAN COURT:

1. This is an application by the defendant in this former litigation, Paratus AMC Limited, against the Claimant, Miss Lalmalek Al Bulushi, to extend an extended civil restraint order that was made by Mann J in these proceedings on 20 November 2019 for an almost two-year period, expiring on 20 October 2021. Mann J made the 2019 order on the basis as required in Practice Direction 3C, that the claimant had persistently issued claims or made applications which are totally without merit.
2. The claimant's particular concern relates to a mortgage of a property in which she lived. The mortgagee was the defendant. The defendant has since exercised its power of sale and sold the property, so the claimant no longer lives there.
3. The argument previously raised by the claimant was that the mortgage was void as a matter of law, because it was an agreement for the transfer of an interest in the property that was not signed by both parties as required by section 2 of the Law of Property (Miscellaneous Provisions) Act 1989.
4. The point taken was bad then and remains bad because the defendant relies on a registered legal charge, not on an agreement to confer a legal charge, and therefore no compliance with section 2 of the 1989 Act is required. The mortgage itself was validly granted by deed and registered at the Land Registry and the defendant enforced its rights in reliance upon it.
5. Undeterred, Ms Al Bulushi has continued to seek to litigate the same point. Three other sets of proceedings were issued in an attempt to do so, before the order of Mann J. Since that order was made, the appellant has continued to seek to pursue the same issue.
6. First, she sought permission to appeal Mann J's order. That application to the Court of Appeal was refused by Newey LJ on 8 July 2020 as being totally without merit. Ms Al Bulushi then sought permission to appeal the decision of Mann J to the Supreme Court, which of course is untenable and her attempt to do so was rejected. She then issued a

claim on 24 February of this year against the then Lord Chancellor, seeking to set aside Newey LJ's order, and then by application notice on 29 March this year, which was sealed on 16 April this year, Ms Al Bulushi made an application for permission under the terms of the ECRO to make a further application in these proceedings. That was rejected by Zacaroli J on the basis that the application was totally without merit because it sought to raise again the same argument, namely that the mortgage was invalid for lack of signature, and the applicant therefore was entitled to restitution. That is the very same argument that had been rejected by Mann J.

7. There was then a further attempt on 6 August of this year by Miss Al Bulushi to make a further application, but nothing has yet materialised in relation to that. Then on 5 August there was an attempt to appeal the order of Zacaroli J, which was rejected in the Court of Appeal on 11 October, so last week, with Arnold LJ noting that the application was a - and I quote - "blatant attempt to relitigate the matter".
8. In her witness statement and skeleton argument prepared for the purposes of this hearing, Miss Al Bulushi has again raised exactly the same argument that has previously been disposed of. She is, therefore, without doubt, persistently seeking to relitigate the same issue that has been decided previously. However, she did not appear at the hearing before me this morning in order to pursue any arguments that she had.
9. It seems to me inevitable, in the light of the attempts that have been made to pursue the same argument since the order of Mann J, that an extension to the ECRO is needed. The question for me is essentially this: whether such an extension is necessary in order to protect litigants from vexatious proceedings against them, and to protect the finite resources of the court from waste.
10. I have no doubt at all that if I did not extend the ECRO, Ms Al Bulushi would be likely to issue a further claim against the defendant, seeking to relitigate the same point, and thereby using up further court resources in pursuing a claim which is hopeless. In those circumstances I will extend the existing civil restraint order, which has not yet expired, by a further period of two years, up to and including 20 October 2023.
