

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
CHANCERY DIVISION
BUSINESS LIST



No. CH-2019-000073

[2019] EWHC 1433 (Ch)

Rolls Building
7 Rolls Building
Fetter Lane
London

Friday, 17 May 2019

Before:

MR HONOURABLE MR JUSTICE MARCUS SMITH

B E T W E E N :

SAINT BENEDICT LAND TRUST LIMITED

Applicant

- v -

LONDON BOROUGH OF CAMDEN & ANOTHER

Respondents

MR C. WOLMAN appeared on behalf of the Applicant.

The Respondents were not represented and did not attend.

J U D G M E N T

MR JUSTICE MARCUS SMITH:

- 1 The Applicant seeks to appeal an order of District Judge Obodai, sitting in the Business and Property Courts in Manchester. That order is dated 22 February 2019. On 26 April 2019, I made an order on the papers and without a hearing, striking out the appeal. That order noted that appeal bundle had to be lodged with the court by 19 April 2019; that no appeal bundle had been lodged; and that no extension of time had been sought.
- 2 As it happens, my order was not properly served on the Applicant. The email enclosing it was misdirected and, although the order eventually came to the Applicant's attention, application to vary or revoke my order is made somewhat later than it should have been. But clearly there is good reason for that.
- 3 Although the correspondence with the court subsequent to my order suggests that an extension of time was granted to the Applicant to enable it to file an appeal bundle, it is quite clear that there was no such extension made or granted.
- 4 I have been shown by Mr Wolman, counsel for the Applicant, an email dated 28 March 2019 to Chancery Judges' Listing, which states that: "We write to advise that we have planned to file the skeleton argument tomorrow, Friday 29 March." The email then notes that the transcript of the approved judgment of District Judge Obodai has not been obtained. It then says: "Please inform the case lawyer dealing with the appeal that we will be filing the skeleton argument seven days after we have received the judgment." The response from Listing was to note the request for an extension of time and to say that the court would expect the skeleton to be enclosed with the appeal bundle when lodged.
- 5 This form of informal communication with the court, on which Mr Wolman relies, should not take place. The rules regarding the filing of appeal bundles are clear and it is clear from the letter to the Applicant, allocating the appeal an appeal number, that an extension of time must formally be sought. It is unfair on the court staff to email without any particular details requesting in vague terms an extension of time, without making clear that there is in place a mandatory requirement specifying when an appeal bundle needs to be filed and indicating that if that cannot be done an extension of time should be applied for.
- 6 Although the Applicant has now purported to file an appeal bundle, the bundle before me notably lacks the transcript of the hearing and the judgment that should be in it.
- 7 The application for an extension of time has been made by Mr Wolman. Mr Wolman suggested that the order striking out the appeal was irregular. I reject that. The application was properly struck out because the rules had not been complied with. However, it seems to me that it would be wrong to deprive the Applicant of the potential to have an appeal heard purely on formal grounds, so, I am, therefore, going to give the Applicant seven days in which to put its house in order. I, therefore, am directing that by this Friday week a complete appeal bundle be filed by the intended appellant. If that is not done the appeal will be struck out again.
- 8 I make it clear, however, that if a proper extension of time request is made before next Friday – and by "proper", I mean in a formal application supported by evidence explaining why the relevant material cannot be filed – then of course the court will consider it. But I want to stress that the rules are in the White Book for a reason and this court takes a singularly dim view of attempts by parties to circumvent them.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
civil@opus2.digital*

**** This transcript has been approved by the Judge ****