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IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS  
OF ENGLAND AND WALES  
CHANCERY DIVISION  
[2021] EWHC 2842 (Ch)



No. PT-2021-000456

Rolls Building  
Fetter Lane  
London, EC4A 1NL

Thursday, 2 September 2021

Before:

MR JUSTICE ADAM JOHNSON

B E T W E E N :

THANDI

Claimant

- and -

SAGGU

Defendant

MR M WALSH (of Counsel) appeared on behalf of the Claimant.

MR J SARKER (of Counsel) appeared on behalf of the Defendant.

J U D G M E N T

(Via Microsoft Teams)

MR JUSTICE ADAM JOHNSON:

### **Introduction and background**

- 1 The claimant, Mrs Thandi, is the owner of a number of properties. One is presently her home. This is at number 8 Heather Drive, Dartford. Mrs Thandi is a borrower from Masthaven Bank Limited. She owes them about £145,000. The loan is secured by means of a charge over 8 Heather Drive in favour of Masthaven Bank. Mrs Thandi is also the owner of a commercial property. The address is 5-7 Parkside Parade, North End Road, Dartford. It is presently subject to a first charge in favour of NatWest Bank securing a loan of some £12,500. Parkside Parade comprises commercial units and a flat on the first floor. I understand there is also a further property. This is apparently also a residential property. The address is 11 Chaucer Way, Dartford. According to Mrs Thandi's evidence, this property is worth £320,000 and she has a mortgage on it in the sum of £190,000.
- 2 The present dispute arises as follows. In 2017 the defendant, Mr Saggu, carried out some works for Mrs Thandi on her home at 8 Heather Drive. The works were carried out by Mr Saggu's construction company. The works were apparently completed but an issue arose as to whether Mrs Thandi still owed Mr Saggu's company some money for the work he had done. Although she paid about £71,000, which she says was in excess of the quotations given, Mr Saggu claimed to be owed further sums which he has said were in the region of £15,000.
- 3 Against that background, between April and June 2018, the parties executed three versions of a letter recording terms of an agreement they had apparently settled on. I will refer to these as "the Letters". The gist of the arrangement was that Mrs Thandi would sell the Parkside Parade Property to Mr Saggu for £270,000. Mr Saggu's case is that he paid a total of £5,000 by way of a deposit. Mrs Thandi accepts in her evidence that £5,000 was paid but she says it was in the form of a loan. As to the sums owed to Mr Saggu's company in respect of the building works, each of the Letters says as follows:

"By signing, Mr T Saggu will/also has a duty to waive the £15,000 owed to his company for works undertaken at Kinders [that is Mrs Thandi's residence] at 8 Heather Drive, Dartford, DA13 3LE earlier in 2017. This credit note will be issued by Mr T Saggu on completion of the purchase, 5-7 Parkside Parade."
- 4 Matters did not progress on the proposed sale of Parkside Parade. In August 2018 Mr Saggu sent a text message to Mrs Thandi saying he did not wish to proceed and asking for payment of the money he was owed, which at that stage he put at £25,000. There is a dispute about the meaning and effect of this communication which Mr Saggu says was not intended to be a withdrawal from the proposed transaction but instead only an attempt to apply pressure on Mrs Thandi by threatening to walk away.
- 5 In any event, in October 2018 Mr Saggu then procured the entry of a unilateral notice on the charges register at HM Land Registry on the basis that the Letters constituted a binding contract for the sale of the Parkside Parade property. Mr Saggu has not started proceedings

to enforce that contract but his position in his evidence is that he still intends to purchase Parkside Parade as originally agreed and he has said he intends to take steps to enforce his claim.

- 6 Mrs Thandi, however, did make an application to the Land Registry to have the unilateral notice removed. Mr Saggu objected to that application. The Land Registry has now determined that Mr Saggu's objection is one of substance and has to be dealt with, i.e. it has determined that it is not groundless under section 73 of the Land Registration Act 1972. Thus, as matters presently stand, the unilateral notice remains in place.
- 7 That being so, Mrs Thandi has now issued the present proceedings with a view to vacating Mr Saggu's unilateral notice. In the context of her proceedings, she seeks an injunction. It is in the form of an interim mandatory injunction so the effects of it would be to remove the unilateral notice pending trial of the action.
- 8 The urgency to secure removal of the unilateral notice arises in the following way. Masthaven Bank is now demanding payment of the £145,000 or so it is owed, which is secured on Mrs Thandi's home at 8 Heather Drive. The contractual term of the loan in fact expired in October 2020. The bank has issued possession proceedings and I was told during the course of the hearing that a hearing in the possession action has now been listed for November this year.
- 9 8 Heather Drive appears to be worth between about £540,000 and £560,000 and so even allowing for the loan due to Masthaven Bank, there is substantial unencumbered equity in that property. Nonetheless, Mrs Thandi's evidence is that she is unable to secure a residential mortgage to repay Masthaven Bank because she does not earn enough to meet the criteria established by residential mortgage lenders. She says she works only part time and her annual income from employment is only £6,000.
- 10 However, Mrs Thandi says that she is able to raise commercial finance on both the Parkside Parade property and the 8 Heather Drive property taken together. She has an offer from a tertiary lender called MT Finance. They are willing to advance a loan of some £430,000 to be secured by mortgages on both properties. That of course is much more than the £145,000 or so required to be paid back to Masthaven Bank, but Mrs Thandi has recently indicated in her evidence that she has plans to redevelop the Parkside Parade property and the additional funds are intended to be used for that purpose. The redevelopment will involve adding a further residential flat above the existing commercial premises so that the property would consist of two residential flats on the first floor and a shop on the ground floor. Planning permission has not yet been obtained but there has been an application for a pre-planning approval.
- 11 Thus, says Mrs Thandi, if the new loan is advanced by MT Finance she will be able to pay off Masthaven and the risk of her being removed from her home will go, but what is standing in the way of that is the unilateral notice. MT Finance will not advance the new loan while the unilateral notice on Parkside Parade remains in place. She therefore seeks by means of her injunction application to have it removed.
- 12 Mrs Thandi says she has a legal basis for challenging the unilateral notice, namely that the sale contract which it purports to protect is invalid or ineffective. As to this, her particulars

of claim advance essentially three points. The first is that any agreement was procured by undue influence. She says that she speaks limited English and did not fully appreciate what she was signing and was pressured into signing by Mr Saggu who was harassing her and who refused to complete snagging works at her home unless she signed.

- 13 The second point is that the Letters do not comply with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989. The third point is an argument that any agreement was rescinded by mutual consent, as to which Mrs Thandi relies on Mr Saggu's text message of August 2018 and what she says were his later actions in pressing for payment of the outstanding £25,000, rather than his pressing for completion of the alleged sale contract for Parkside Parade.
- 14 I should say something further about the proposed new loan from MT Finance. According to the offer document of 2 March 2021, MT Finance are willing to advance a gross amount of £430,000, secured by first legal mortgages on both properties. This is based on a loan to value ratio of 50 per cent and so assumes a combined market value for the two properties of £860,000 split, it seems, on the basis of valuations commissioned by MT Finance showing a market value of £540,000 for 8 Heather Drive and of £320,000 for Parkside Parade. MT Finance specialise in short-term financing. The loan proposed is for a 24-month term but 12 months' interest is payable up front and in effect is deducted from the amount advanced. Further deductions are made for facility and other fees. The upshot is that not £430,000, but instead £368,000 will be advanced if the loan goes ahead. Remaining interest after the initial 12-month period, is then payable monthly in advance at the same rate, 0.85 per cent per month.
- 15 The offer makes it clear that the loan is intended to be solely or predominantly for business purposes. The offer also indicates it is to be a strict condition of the loan that the borrower shall not live in the property. Mrs Thandi's evidence is that if the new funds are advanced she will therefore move out of 8 Heather Drive and live in her property at 11 Chaucer Way.
- 16 Coming back then to Mrs Thandi's application, she has offered the usual cross-undertaking in damages in support. In correspondence she has also offered a further undertaking which as her counsel, Mr Walsh, has now clarified, is intended as an undertaking not to sell either Heather Drive or Parkside Parade pending resolution of the underlying dispute and not to object to Mr Saggu reinstating his notice after completion of the new mortgage to MT Finance.
- 17 As to Mr Saggu, he objects to the making of any injunction. He asserts that there was certainly a binding contract entered into by means of the Letters and that he did not resile from it. He challenges the proposition that there was any duress or undue influence and that Mrs Thandi did not know what she was agreeing to. Mr Saggu has also indicated he relies on an estoppel argument which is said to arise because he conducted work for Mrs Thandi on the basis of an assurance he took from the Letters that the Parkside Parade property would be sold to him. Further, Mr Saggu expresses serious concerns about the commercial viability and good sense of the course of action Mrs Thandi proposes to take, which he considers is likely to impact on his ability to enforce his agreement effectively and secure the Parkside Parade property for himself at what he says was the agreed price of £270,000.

## Legal principles

- 18 The parties are agreed on the legal principles to be applied. I must consider the three broad questions set out in *American Cyanamid Co (No 1) v Ethicon Limited* [1975] 1 AER 504, namely:
- (a) Is there a serious issue to be tried?
  - (b) Will damages be an adequate remedy for either side? and
  - (c) Where does the balance of convenience lie?
- 19 The parties have reminded me that particular considerations arise in the context of interim mandatory injunctions. The relevant points may be summarised as follows, reflecting the principles derived from *Nottingham Building Society v Eurodynamics Systems* [1993] FSR 468 and reproduced at section 15-24 of vol.2 of **The White Book**:
- (i) The overriding consideration is which course is likely to involve the least risk of injustice if it turns out to be “wrong” in the sense of granting an interlocutory injunction to a party who fails to establish his right at trial or would fail if there was a trial or, alternatively, in failing to grant an injunction to a party who succeeds or would succeed at trial.
  - (ii) In considering whether to grant a mandatory injunction, the court must keep in mind that an order which requires a party to take some positive step at an interlocutory stage may well carry a greater risk of injustice if it turns to have been wrongly made than an order which merely prohibits action, thus preserving the *status quo*.
  - (iii) It is legitimate where a mandatory injunction is sought to consider whether the court does not feel a high degree of assurance that the claimant will be able to establish this right at trial. That is because the greater the degree of assurance the claimant will ultimately establish his right, the less will be the risk of injustice if the injunction is granted.
  - (iv) But even where the court is unable to feel any high degree of assurance that the claimant will establish his right, there may still be circumstances in which it is appropriate to grant a mandatory injunction at an interlocutory stage. Those circumstances will exist where the risk of injustice, if the injunction is refused, sufficiently outweigh the risk of injustice if it is granted.
- 20 Mr Walsh has also drawn attention to authorities dealing specifically with the court’s jurisdiction in relation to the Land Register. He relies on cases such as *Nugent v Nugent* [2013] EWHC 4095 (Ch) as establishing that the jurisdiction is a broad one conferring on the court a wide discretion.
- 21 I then turn to consider the application of these principles to the facts of this case.

### **Serious issue to be tried**

- 22 Mrs Thandi has sensibly accepted that there is a serious issue to be tried. In other words she accepts that Mr Saggu has an arguable case that a contract was entered into on the basis of the Letters, even though she disputes that on the basis of the points advanced in her particulars of claim. Mr Saggu, however, argues that there is no serious issue, but on this point I agree with Mrs Thandi. In my judgment there is a serious issue to be tried. The points relied on by Mr Saggu, although of weight, are not sufficiently clear to persuade me that at this stage there is no serious issue. Many of such points are evidential. For example, Mr Saggu says that Mrs Thandi is experienced in property matters, speaks sufficiently good English to be able to instruct solicitors and so cannot plausibly have been subject to any duress or undue influence.
- 23 He also challenges the proposition that there was an agreed repudiation of the contract to sell Parkside Parade, including on the basis of communications after the date of the alleged repudiation in which Mrs Thandi is said to have acted on the basis that the agreement was still alive. Such matters are not, however, capable of determination in the context of an application such as the present. They are matters for trial. The evidence, in my judgment, is not sufficiently clear to persuade me that there is no serious issue to be tried between the parties.

### **Adequacy of damages**

- 24 I come then to the issue of adequacy of damages. Mrs Thandi says that damages are not an adequate remedy from her point of view. That is because if it turns out that she is correct that there was no contract and so there never should have been a unilateral notice on the Charges Register for Parkside Parade, but in the meantime the unilateral notice has been left in place and in consequence her home has been repossessed, Mrs Thandi says she will have suffered an injustice for which damages are not an adequate remedy.
- 25 I have some reservations on this point, given that Mrs Thandi is apparently willing to move out of her home anyway into the Chaucer Way property in order to obtain the new loan from MT Finance, but in the end I am persuaded that I should give her the benefit of the doubt and proceed on the basis that damages would not be an adequate remedy. I am persuaded by Mr Walsh's submission that the idea of a home is not confined to the place where one may from time to time choose to reside and that there is likely value to Mrs Thandi in the Heather Drive property which may be intangible and which may not be capable of monetary compensation if the property is lost to her.
- 26 What of Mr Saggu? Will damages be an adequate remedy for him? Mr Walsh has submitted that they would be. He says that Mr Saggu has not evinced any real intention of pursuing his claim for the Parkside Parade property. The implication seems to be that he should be regarded as pursuing a damages or monetary claim. Mr Walsh says that damages will be an adequate remedy for Mr Saggu and moreover says that Mrs Thandi will be in a position to meet any damages award because even assuming the new loan is advanced, there will still be material unencumbered equity across the Heather Drive property and the Parkside Parade property taken together. They have a combined value of about £860,000. The loan from MT Finance is for £430,000. Even assuming that the further year's interest, say £43,000, is added to the debt, and even making a further allowance of, say, £50,000, to account for the NatWest loan and other contingencies, that would still mean that only

£523,000 of the available equity across the two properties was encumbered and that would leave £337,000 unencumbered. The present value of Parkside Parade is only about £320,000 and so, says Mr Walsh, there is plenty of value for Mr Saggu to enforce against.

- 27 That is a strong point but in the end I have determined that I am not persuaded by it. I do not consider that damages would be an adequate remedy for Mr Saggu. His primary claim is to enforce what he alleges is a valid contract for sale. He now says he intends to do that by means of a defence and counterclaim in these proceedings. If Mr Saggu is right then his primary remedy will be an order for specific performance of the contract, i.e. an order for the sale of Parkside Parade for a purchase consideration of £270,000. On the face of it, as it seems to me, damages are not an adequate remedy in such circumstances. On the footing that there was a valid contract for sale, Mr Saggu already has a proprietary interest in Parkside Parade and is entitled to acquire that property from Mrs Thandi. Damages are not an adequate remedy for vindication of that right.

### **Balance of convenience**

- 28 Having reached that position, the next step is for me to consider the balance of convenience. As to this, both parties have encouraged me to have regard to the merits of their respective positions on the underlying claims. For Mrs Thandi, Mr Walsh has submitted that, on their proper construction, the Letters of April to June 2018 are nothing more than an agreement to agree. That is on the footing that they refer expressly to the parties finding independent solicitors who can draw up the necessary agreements. I agree that is a point of substance but I do not see it as determinative because other provisions of the Letters are consistent with the idea that they were intended to create a binding contract immediately, including the provision for the payment of what is described as a deposit. As I have already mentioned, funds were in fact paid over by Mr Saggu which he characterises as having been by way of deposit.
- 29 Turning then to look at the arguments available to Mr Saggu, amongst other things he relies on a letter sent by Mrs Thandi to the Land Registry, dated 8 July 2020, in which she appeared to say that she well understood the intended effect of the Letters at the time she executed them. Her letter reads as follows:

“What I understood about all three agreements was that I was agreeing to selling my property at 5-7 Parkside to Mr Saggu for a sum of £270,000. This was on the basis of a 10 per cent deposit on exchange, with £5,000 paid immediately and additional £5,000 paid within seven days, and the balance of £17,000 paid within four weeks.”

- 30 This is plainly in contrast to para.21 of Mrs Thandi’s first statement in these proceedings where she says:

“My solicitors have now explained to me that the Letters were not a simple agreement to pay £25,000 but rather an agreement to sell the property [i.e. Parkside Parade] to Mr Saggu. I had no idea this is what the Letters said. Mr Saggu never explained this to me and I did not

get any legal advice. I do not recall ever even discussing the idea of selling the property to Mr Saggu.”

- 31 Mrs Thandi’s evidence is that the letter to the Land Registry was prepared for her by a friend, Mr Azamban(?) and she did not fully appreciate its meaning, given her limited command of English. Nonetheless, on the face of it, the inconsistency does not inspire confidence in her position.
- 32 These examples, however, only serve to underline the point that on the merits there are points of substance on both sides. They cannot be resolved now. They are matters for trial. In terms of the overall balance of convenience, they do not in my view take matters any further forward. It seems to me that in considering the balance of convenience I should be more concerned with the issues of fairness between the parties and in particular the question of the unfairness or injustice which might arise if action taken now turns out after trial to have been the wrong course of action.
- 33 As to this, on the evidence I accept Mrs Thandi’s basic premise that there is a material risk, if the unilateral notice is not removed, that Masthaven Bank will repossess her home at 8 Heather Drive. It follows that there is a material risk if no order is made on her application that she succeeds on the underlying claim, that her home will have been repossessed needlessly.
- 34 On the other hand, I take on board the points of criticism Mr Sarker, Mr Saggu’s counsel, has made in the course of his submissions about Mrs Thandi’s evidence on the commercial viability of the course of action she proposes to take. For example, it does seem that it will be a challenge for Mrs Thandi to service the interest payments due on the MT Finance loan in year two when monthly interest payments will apparently be required. Assuming they are in the region of the year one interest, they will amount to a further £43,000. Mrs Thandi has income of only £6,000 a year. Moreover no planning permission has yet been obtained in respect of Parkside Parade. The plans in relation to its redevelopment are vague. Mrs Thandi says only the following in her third witness statement:
- “I have obtained advice from professional property developers and managers and I am satisfied that this development will provide more than sufficient source of revenue to pay off the MT Finance loan when the term expires, with a buy to let mortgage to cover both residential properties.”
- 35 This rather sparse account gives little comfort as to what the plans actually are and how they will work commercially. I pressed Mr Walsh, Mrs Thandi’s counsel, on some of these points in the course of his submissions. On the question of additional interest, Mr Walsh said that year two interest may in the event simply be capitalised as part of the loan to MT Finance. As to Mrs Thandi’s plans, he said that she is entitled to do what she wants with what is at present her property. Even assuming he is correct on both points, however, the fact remains that the vagueness of Mrs Thandi’s plans and their questionability in basic commercial terms are matters of concern and relevance in assessing where the balance of convenience lies.



- 36 Turning then to Mr Saggu, what are the risks to him if an injunction is granted but it turns out, after trial, to have been the wrong step? It seems to me that if he is confined eventually to a monetary remedy, the risk is a limited one. I have already described above a calculation which suggests there will be significant unencumbered equity across the two principal properties, Heather Drive and Parkside Parade, even when the prospective interest of MT Finance is taken into account. Such equity is likely to be more than sufficient to enable Mr Saggu to take effective enforcement action if eventually he succeeds in recovering damages or perhaps succeeds on a debt claim against Mrs Thandi.
- 37 As I have noted, Mrs Thandi has indicated her willingness not to dispose of either the Heather Drive property or the Parkside Parade property pending trial. As I understand it, she is also willing to undertake not to raise any further secured borrowings on either property. There is also of course the additional Chaucer Way property which again appears to benefit from substantial unencumbered equity.
- 38 The more serious concern, however, is about what happens if Mr Saggu eventually succeeds in obtaining an order for specific performance. In that event, he will be seeking transfer of the Parkside Parade property at the agreed price of £270,000, minus of course on this hypothesis the £5,000 already paid by way of deposit. The concern is whether his ability to secure that outcome is likely to be compromised if an order is made now for the removal of the unilateral notice, thus enabling Mrs Thandi's plans to go ahead.
- 39 This is I think a matter of legitimate concern given the vagueness of Mrs Thandi's plans and the question mark which exists over their viability. As I understood the submissions made by Mr Saggu, they were really about the uncertainty which Mrs Thandi's plans are likely to give rise to. He objects to the idea of Mrs Thandi raising finance now on a property which he claims an entitlement to, and moreover doing so in a manner which creates uncertainty as to whether he will eventually be able to obtain the remedy which will vindicate his right. The particular concern expressed was about the possibility of the Parkside Parade property ending up in negative equity with the sums charged on it exceeding its value.
- 40 This uncertainty issue is one of some weight and has troubled me, but two further points arise in relation to it. The first is that Mr Saggu has not taken any steps so far to vindicate his right, by initiating proceedings for specific performance for example. That is so even though the agreement he relies on is said to have been entered into over three years ago, in mid-2018. Neither has Mr Saggu yet advanced any defence and counterclaim in the present action which would have been the obvious step to take. The delay suggests a lack of seriousness in actually wishing to pursue the remedy he seeks to protect.
- 41 The second point is this. During the course of hearing before me and in light of various exchanges during the course of submissions, Mrs Thandi offered up a further undertaking. This is as follows:

“If the court ultimately decides following trial that the letters dated 22 April 2018, 31 May 2018 and 4 June 2018 constitute a valid contract for the sale of 7 Parkside Parade, North End Road, Dartford, DA1 4RA, and if the defendant is granted specific performance of that contract, the claimant undertakes to take all necessary steps to ensure any charge in favour of MT Finance Limited is redeemed. The claimant further undertakes to sell her property at 8 Heather Drive,

Dartford, DA1 3LE to secure the necessary funds to redeem the charge should such a sale be necessary.”

- 42 The purpose of the undertaking, as will be apparent, is to give additional comfort to Mr Saggu that if he in fact pursues his claim for specific performance and is successful, then the interests of MT Finance will not stand in the way of his being able to acquire Parkside Parade. The interest of MT Finance is in having its loan repaid. The undertaking Mrs Thandi proposes is effectively that she will take steps to pay off the MT Finance loan if that is what is needed and, most significantly, she undertakes that, if necessary, she will sell 8 Heather Drive.
- 43 I am persuaded that this further concession and undertaking from Mrs Thandi tips the balance of convenience in her favour. I am satisfied that in the circumstances it provides an adequate degree of protection to Mr Saggu and justifies an order for removal of the unilateral notice to enable the proposed financing to proceed. I say there is an appropriate degree of protection for the following reason. The scenario under contemplation is one in which Mr Saggu succeeds in his claim for specific performance and thus is required to pay the balance of the purchase price for Parkside Parade to Mrs Thandi. That is an amount of £265,000. Let us assume that at the time she owes something in the region of £500,000 to MT Finance. She would be able to repay £265,000 from the sale proceeds of Parkside Parade. That would leave £235,000 to pay. The value of Heather Drive is estimated at between £540,000 and £560,000. If it is sold, as Mrs Thandi undertakes to do in this scenario, then MT Finance can comfortably be paid off without needing to take any steps to enforce its security in relation to Parkside Parade. The same result follows even if the sums owed to MT Finance are much higher. Thus the intention in the scenario which carries the most significant risk for Mr Saggu is to keep Parkside Parade free and clear of any interest or restriction which would inhibit his ability to enforce an order for specific performance.
- 44 I should say that of course the protection is not comprehensive. It seems to me it has this limitation. The mechanism in the undertaking is only activated if and when an order for specific performance is made. That will occur only after a trial. There is therefore a risk that Mrs Thandi may default and that MT Finance may take enforcement steps before there is a trial and that such steps may impact on Mr Saggu’s ability eventually to enforce. However, that risk is at least partly attributable to Mr Saggu’s own delay to date in seeking to enforce the contract contained in the Letters. He can also, it seems to me, now seek to help himself if he is serious about his specific performance claim both by serving a defence and counterclaim as soon as possible and then seeking direction to move the proceedings forwards.
- 45 I should say that I have noted the specific further concern made by Mr Saggu in relation to the proposed undertaking, namely the concern that the works Mrs Thandi says she wishes to carry out on Parkside Parade may affect his ability to raise finance in the future in order to acquire it. On proper analysis, however, it seems to me this is not a realistic concern because the works are not imminent, planning permission has not yet been granted, and in any event they are intended to enhance not diminish the value of Parkside Parade. In a sense that is being done at Mrs Thandi’s own risk. If she chooses to carry out works which are intended to increase the value of Parkside Parade knowing that there is a risk, she may nonetheless have to sell the property to Mr Saggu for the agreed price of £270,000. She cannot complain if that situation materialises.

## **Overall conclusion**

46 In overall conclusion, therefore, I have determined that I should make the order Mrs Thandi seeks. That is because the order, in my judgment, strikes the correct balance between the interests of the parties as I understand them. It will avoid the risk of Mrs Thandi's home being repossessed, which will be an unjust outcome in the event that her claim eventually succeeds. Further, it can now be achieved on terms which materially limit the risk of any unfairness or injustice to Mr Saggu if he eventually succeeds and obtains an order for specific performance of the contract said to be contained in the Letters.

47 In light of these points, my view is that the risk of injustice if an injunction is refused outweighs the risk of injustice if one is granted. Consequently, in my judgment, it is appropriate to grant the relief sought. I will look to counsel for assistance in drawing up an appropriate form of order, including the various undertakings offered. Given that some uncertainties remain, the order should contain liberty to either party to apply on notice to the court for further orders or directions if required.

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**CERTIFICATE**

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This transcript has been approved by the Judge.