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No: BR-2022-000295

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPOERTY COURT OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)
IN THE MATTER OF NICHOLAS MARK JONES
AND IN THE MATTER OF THE INSOLVENCY ACT 1986

Royal Courts of Justice
Rolls Building
Fetter Lane
London EC4A 1NL

Date: 13 June 2023

Before:

Deputy ICC Judge Baister

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Between:

(1) MICHAEL PATRICK DURKAN (AS LIQUIDATOR OF LONG COMPTON PROJECT LIMITED) **(2) LONG COMPTON PROJECT LIMITED**	**Petitioners**
- and -	
NICHOLAS MARK JONES	**Debtor**

- -
- -

Mr Amit Gupta (instructed by **Morgan Phelps**) for the **Petitioners**
Mr Wilson Leung (instructed by **Benchmark Solicitors LLP**) for the **Debtor**

Hearing date: 25 May 2023

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Approved Judgment

This judgment was handed down remotely at 10.00 am on 13 June 2023 by circulation to the parties or their representatives by email and by release to the National Archives.

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Deputy ICC Judge Baister:

The petition and the evidence

1. On 26 August 2022 the petitioners presented a bankruptcy petition against the debtor based on a judgment debt of £1.2 million odd. The petition debt is undisputed for present purposes (see paragraph 4 of the debtor's witness statement of 4 November 2022). The sole issue before the court is whether it has jurisdiction to make a bankruptcy order, specifically whether at any time in the period of three years ending with the date of presentation of the petition the debtor has either had a place of residence in the jurisdiction within the meaning of s 265(2)(b)(i) Insolvency Act 1986 or has carried on business in the jurisdiction within the meaning of s 265(2)(b)(ii) of the Act as the petitioners claim in the petition. (The petition also relies on the debtor's having been ordinarily resident in the jurisdiction in the relevant period, but this was not pursued at the hearing.) The debtor denies that he has, both by his notice of opposition and in his evidence. I take it to be common ground, or at least undisputed, that he is at present in the USA: the petition gives his current address as being in Los Angeles, and he has been served in the USA with both the statutory demand and the petition. It is common ground that the burden of satisfying the court that the jurisdictional prerequisites for making a bankruptcy order are made out rests on the petitioners and that the civil burden of proof applies.

2. The petitioners' evidence comes in the form of witness statements of Michael Patrick Durkan, the liquidator of Long Compton Projects Limited, a company of which the debtor was a director and which was wound up by the court on a petition of HMRC. Both Mr Durkan and the company are creditors under the order/judgment on which the petition is founded. Mr Durkan does not rely on direct, personal knowledge as to matters going to either of the jurisdictional bases in issue: he relies on documents and other information he has obtained as a result of extensive investigations. (Mr Leung noted in his submissions that in spite of their scope they had in fact yielded very little. There is some truth in that.) He also adduces evidence from Mr Mark Walker and Mrs Jayne Walker, who do speak from personal knowledge. The evidence in opposition comes in the form of a single witness statement from the debtor himself. Mr Gupta noted the absence of corroboratory evidence of the kind one might have expected. There is some force in that, but I do not think I can make much of it.

3. A curious feature of this case is that the petitioners have elected not to cross-examine the debtor on his written evidence. An order of ICC Judge Prentis of 6 December 2022 records the parties' having agreed that cross-examination was not required. This is unusual. The debtor flatly denies that he has had or has a place of residence in the jurisdiction or has carried on business here in the relevant period. Mr Leung points out that, in the absence of cross-examination, his client's evidence as to those (and other) matters should be accepted at face value, particularly since much of it stands unchallenged. In support of that he relies on *Coyne and Hardy v DRC Distribution Ltd and Foster* [2008] EWCA Civ 488, [2008] BPIR 1247 and *Wilkinson v Commissioners of Inland Revenue* [1998] BPIR 418. In the former Rimer LJ said, at para 58:

> "As regards the need for oral evidence, [counsel for the appellants] reminded us that it is well-settled practice that if a court finds itself faced with conflicting statements on affidavit

> evidence, it is usually in no position to resolve them, and to make findings as to the disputed facts, without first having the benefit of the cross-examination of the witnesses. Nor will it ordinarily attempt to do so. The basic principle is that, until there has been such cross-examination, it is ordinarily not possible for the court to disbelieve the word of the witness in his affidavit and it will not do so. This is not an inflexible principle: it may in certain circumstances be open to the court to reject an untested piece of such evidence on the basis that it is manifestly incredible, either because it is inherently so or because it is shown to be so by other facts that are admitted or by reliable documents. [Counsel for the appellants] referred us in support to *Re Hopes (Heathrow) Ltd*; *Secretary of State for Trade and Industry v Dyer and Others* [2001] 1 BCLC 575, at 581–582 (Neuberger J). He also referred us to paras [17] and [18] of the judgment of Mummery LJ in *Doncaster Pharmaceuticals Group Ltd and Others v The Bolton Pharmaceutical Company 100 Ltd* [2006] EWCA Civ 661 (unreported) 26 May 2006, which provides a reminder of the caution the court should exercise in granting summary judgment in cases in which there are conflicts of fact which have to be resolved before judgment can be given. [Counsel for the appellants] said that these principles apply equally to the case in which the evidence is given by witness statement rather than by affidavit, and I agree. I said as much in my summary of the principles in *Long v Farrer & Co and Farrer* [2004] EWHC 1774 (Ch), [2004] BPIR 1218, at paras [57]–[61]."

The second authority is to the same effect. I shall deal with the implications of this later.

4. I turn, then, to the two issues.

The residence issue

5. The concept of being "ordinarily resident" and "having a place of residence" for the purposes of jurisdiction are not the same (*Reynolds Porter Chamberlain LLP v Khan* [2016] BPIR 722), although the same evidence and similar considerations may bear on or apply to both. With that, and the fact that I am concerned only with the "place of residence" limb of the test, in mind I turn to some of the case law and attempt to distil some of the many points that arise from it.

6. In *Re Brauch (A Debtor) Ex parte Britannic Securities & Investments Ltd* [1978] Ch 316, which is relevant to both issues in this case, Goff LJ held that:

> (1) It was possible for a debtor to have a place of residence in the jurisdiction even though he was not in actual occupation during the relevant period.
>
> (2) The shorter the period of actual occupation of premises, the more difficult it would be to hold it to be a "dwelling house" (the relevant term under the Bankruptcy Act 1914).

(3) It was doubtful whether a debtor had to have a legal or equitable interest in a place of residence to satisfy the test.

7. *Re Brauch* remains good law on "place of residence," there being no real difference between a "dwelling house," the expression used in the Bankruptcy Act 1914, and a "place of residence," the expression used in the Insolvency Act 1986 (see *HRH Prince Hussam Bin Saud Bin Abdulaziz Al Saud v Mobile Telecommunications Company KSCP* [2022] EWHC 744 (Ch), [2022] BPIR 1001).

8. The "place of residence" limb of jurisdiction was recently considered by Bacon J in *Lakatamia Shipping Co Ltd v Su* [2021] EWHC 1866 (Ch), [2022] BPIR 181, at paragraphs 24-26 and 36-37, from which Mr Leung derives a number of principles set out in his skeleton argument which I gratefully adopt, adapt and supplement as follows, continuing the numbering used in paragraph 6 above:

(4) The concepts "ordinarily resident" and "having a place of residence" are not totally separate, so that similar factors may be relevant to both tests; but it does not follow that all factors that may be relevant to one will be relevant to the other (para 32).

(5) The phrase "has had a place of residence" should be given its natural meaning (para 33).

(6) Regard may be had to authorities on the interpretation of the expression, even if they arose in different statutory contexts (para 33).

(7) The nature of a person's presence in and connection to a particular place is a relevant factor in determining residence.

(8) The test of "having a place of residence" requires an assessment of the quality of the debtor's residence. It does not simply mean that the debtor has an entitlement of some sort to occupy a place that is capable of being described as someone's place of residence (para 24).

(9) The residence must be that of the debtor, and not someone else (para 25).

(10) Thus, the residence cannot merely be the residence of a third party that the debtor is temporarily occupying with the third party's permission (para 26).

(11) In determining whether a debtor has had a place of residence in England and Wales, it is relevant to ask whether the putative place was a "settled or usual place of abode or home" for the debtor (para 36).

(12) Residence connotes "some degree of permanency, some degree of continuity or some expectation of continuity" (para 37).

> (13) The nature of a person's presence may be a relevant factor: for example whether it was voluntary or not (paras 38-39).

The last point was of particular relevance to the unusual facts of the case before Bacon J. She followed it with the observation that any assessment will turn on the facts of the case, which is of general significance.

9. In *HRH Prince Hussam Bin Saud Bin Abdulaziz Al Saud v Mobile Telecommunications Company KSCP* Roth J made much the same point (para 41): he accepted that the factors set out in *Lakatamia* were relevant considerations, although he did not think they should be regarded as indispensable requirements. That must be right, and indeed, is very much the point I think Bacon J herself was making: much will depend on the facts of each case, in the context of which many of the factors in all the authorities may be significant, whilst others may play little or no part. I am reinforced in that view by Roth J's comments at para 37 of his judgment:

> "I do not regard these cases [*In Re Hecquard* (1889) 24 QBD 71, *KT Skjevesland v Geveran Trading* [2002] EWHC 2898 (Ch), [2003] BPIR 924, *Reynolds Porter Chamberlain LLP v Khan* [2016] BPIR 722, or *PJSC VTB Bank v Laptev* [2020] EWHC 321 (Ch), [2020] BPIR 624] as setting out or supporting any single or conclusive test for what constitutes a "place of residence". In particular, they do not in my view establish that de facto *control* of the property is a necessary condition. That concept does not feature in the list of potentially relevant factors set out by the Chief Registrar in *RPC v Khan* nor does it appear in the most recent authority, *Lakatamia Shipping Co Ltd v Su* [2021] EWHC 1866 (Ch), to which I return below. In my judgment, these cases are simply illustrations of the broad range of factual considerations which may be relevant in determining whether an individual has "a place of residence" in this country within the meaning of the statute. The expression should be given its ordinary meaning and the assessment depends on all the facts […]."

The absence of a need to establish control of a property is another factor that should be added (as (14)) to the list of those I have already noted.

10. There are, of course, other authorities on this issue, some cited to me, others not. I do not pretend that the factors I have listed above are exhaustive. They are illustrative. I simply say that they are the ones that appear to me to be most commonly relevant. In fact few of them are of much direct assistance in this case, for reasons to which I shall now come, but it is as well to have them in mind.

11. Mr Gupta sought to "paint a picture," as he put it, of the debtor's relationship with this country. He began his submissions on the residence issue by pointing out that the debtor had lived and worked here until he moved to the USA in July 2018. He has a long standing connection to this jurisdiction and has family here. Since emigrating, he has returned to this country and spent time here between 21 December 2019 and 1 January 2020 and between 5 January and 15 January 2022 visiting his parents when he resided with them or at an hotel. From that starting point, Mr Gupta proceeded to more specific considerations.

12. Central to both issues in this case, he submitted (and he is plainly right), is the role played in the lives of the debtor, his wife, Kristina Charles-Jones, and her parents of a substantial property, The Grange, in Admington, Shipstone-On-Stour. The nature and extent of the debtor's interest in and role in relation to The Grange are disputed in certain respects, but as Mr Gupta says in paragraph 11 of his skeleton argument, the following facts seem to be uncontroversial:

> (1) The Grange was purchased in the joint names of the debtor and his wife in April 2014 and was (and remains) registered in their joint names.
>
> (2) There was a mortgage in favour of Coutts to which the debtor was a party and which he signed. (It was varied at some point, but that is not of any significance.)
>
> (3) The debtor says that he only had a 5% interest in the property: "The remainder is owned by my wife's parents and in reality it was always intended it would belong to them." I will accept that for present purposes.
>
> (4) He says that he relinquished his interest in June 2022. For reasons to which I shall come I am sceptical about that, but it is not necessarily a matter of great significance for present purposes.
>
> (5) Between around March 2019 and January 2022 The Grange was let to Mr and Mrs Walker under a written tenancy agreement. A copy of the tenancy agreement is in evidence. It refers to the debtor and his wife as the landlords. It bears the Walkers' signatures but not those of the debtor and his wife.
>
> (6) Rent was paid from time to time into a Coutts account or into a Coutts mortgage account to reduce the sum outstanding on the mortgagee.

13. Mr Gupta, on behalf of the petitioners, accepts, as he must, that The Grange was not available to the debtor for occupation while the Walkers were living there, but he points out that it has been free of tenants since around January 2022, meaning that it was available to the debtor as a place of residence thereafter. He accepts, however, that he has no concrete evidence that the debtor actually resided there, but he points to matters that, he says, may enable an inference to be drawn that he either did or could have.

14. Mr Gupta relies on statements in a website of Mrs Charles-Jones. The first says that she is a wife, mother of three children and an entrepreneur. The second records, "I live in London, England and Los Angeles with my husband, three children and Taffy our dog." Mr Gupta invites the inference that husband and wife have necessarily had a place of residence in which to live as Mrs Charles-Jones says they did or do.

15. He also relies on communication with the petitioners' solicitors showing that Mrs Charles-Jones and her family "still potentially resided in England," which includes a communication address for her in London given in a letter of 14 November 2020. "This

demonstrates she still resided in this jurisdiction at the time, and by inference (as she lives with her husband), so did the debtor," he contends.

16. He also notes a representation to the Registrar of Companies in relation to the debtor's reappointment as director of Fair Global Prime Group that his country of residence on 28 March 2022 was England.

17. Finally, he notes the debtor's use of The Grange (as opposed to a US address) as his address on a claim form issued recently in the County Court.

18. "All of the above," Mr Gupta says, "are clear evidence that the Debtor has a place of residence in this jurisdiction and has had in the three years preceding the date the Petition was presented on."

19. I do not agree. All the points relied on are individually weak, nor cumulatively do they come to more than the sum of their parts. I accept the debtor's long standing connection with England and his continued family roots here, but nothing in the petitioners' points is enough, in my view, to undermine the debtor's assertions in his written evidence that he left this country in 2018 and has no intention of returning (other than to visit his parents, which he concedes he has for short periods). There is no evidence of his having used The Grange as a place of residence and nothing to indicate he has had any other place in which to reside. The debtor says he does not even have the keys to The Grange. His interest in it (if any) is unclear. Brief periods spent at his parents' home or in a hotel are not enough.

20. As to the website, Mr Leung rightly says that I cannot attribute to the debtor statements made on the internet by his wife. I agree: the context is casual; the statements themselves have no real probative value.

21. I also accept Mr Leung's contention that there is a difference between having an address and having a place of residence. For that reason I decline to attach any weight to the use by either the debtor or his wife of any address in this jurisdiction for the purpose of establishing the existence of a place of residence. I accept at face value, as I must, the debtor's explanation that the reference in the Companies House document to England being his residence was an error.

22. As I have noted, Mr Gupta said that he was trying to build a picture. He made a reasonable fist of doing so on the limited material which he has; but it is not a compelling picture, in my view, nothing like enough to meet the requisite burden of proof or to enable me to disbelieve the debtor's evidence on this issue. The debtor's connection with The Grange lacks the elements of permanence, continuity or control that are the hallmarks of having a place of residence.

23. I therefore reject the petitioners' contention that the debtor had, at any time in the relevant period, a place of residence in this jurisdiction.

Carrying on business

24. Whether someone is carrying on business gives rise primarily to a factual inquiry (*Anglo Irish Bank Corporation Ltd v Flannery* [2013] BPIR 1), although it is necessarily a mixed question of fact and law. Mr Leung submits that the court must

decide (a) what the debtor did; (b) when he did it; and (c) whether what he did amounted to carrying on business (see *Masters v Barclays Bank plc* [2013] EWHC 2166 (Ch), [2013] BPIR 1058). I agree.

25. Although the petitioner initially sought to rely on some of the debtor's activities in the form of doing business connected with a company, Mr Gupta accepted at the hearing that carrying on business through a company or being a director or shareholder of a company did not amount to carrying on business as an individual. He also accepted that the fact that the debtor owed money to Long Compton Project Limited on his director's loan account could not have amounted to his doing business with the company without establishing whether, for example, making loans was the company's business or, I suppose, borrowing from a company could be said to be a business. I should also mention that Mr Gupta abandoned the suggestion that the petitioners' case was assisted by either *Re a Debtor (No 784 of 1991)* [1992] Ch 554 or *Wilkinson v Inland Revenue* [1998] BPIR 418. For the avoidance of doubt, I should say that had he pressed them I would have rejected them. That left him with the allegation that the debtor carried on the business of property letting, namely as joint landlord with his wife of The Grange, which, as we have seen, was let to Mr and Mrs Walker.

26. To the extent that the debtor did carry on business as the petitioners suggest, he plainly did so in the relevant period. That leaves the questions exactly what it was he did and whether what he did amounted to carrying on business.

27. What constitutes carrying on business is hard to define. In *Charlton v Funding Circle Trustees Ltd & Anor* [2019] EWHC 2701 (Ch), [2020] BPIR 125 Barling J noted that the authorities failed to provide a "magic touchstone of what amounts to carrying on a business" but that they did contain helpful guidance in the form of examples of what had been held to amount to doing so (para 21). He went on to give some of those examples. Unfortunately none enables me to latch onto it and apply it directly to the facts of this case.

28. The term "business" is similarly elusive. I was referred by both Mr Gupta and Mr Leung to the judgment of Judge Berner in *Ramsay v Revenue and Customs Commissioners* [2013] UKUT 226 (TCC), [2013] STC 1764 in which he said this:

> "[25] As [counsel for HMRC] pointed out, the word 'business' has been described, by Lord Diplock in *Town Investments Ltd v Department of the Environment* [1977] 1 All ER 813 at 819, [1978] AC 359 at 353, as 'an etymological chameleon; it suits its meaning to the context in which it is found.' That case concerned whether a lease to a government ministry, where the premises were occupied by civil servants was a business tenancy within the meaning of then-applicable counter-inflation legislation. By reference to the mischief of those provisions, 'business' was construed broadly, so as to have no less wide a meaning than that applicable in covenants regarding the use of demised premises.
>
> [26] That construction followed from *Rolls v Miller* (1884) 27 Ch D 71, where Lindley LJ pointed out ((1884) 27 Ch D 71 at

> 88) that the dictionary meanings of 'business', where the word means almost anything which is an occupation, as distinguished from a pleasure, or anything which is an occupation or duty which requires attention, were not of great assistance. The word must be construed according to its ordinary sense, having regard, in that context to the object of the covenant, and in this to the purpose of the legislation."

29. The learned judge went on to say a great deal more, but much of it is directed to issues of tax law, so I should be wary of drawing too heavily on a judgment that is not about the issue which I have to decide.

30. It does seem to me that just as Roth J said that the expression "place of residence" should be given its ordinary meaning, so too the expression "carrying on business" should be construed according to its ordinary sense, having regard to the context (cf the passage from *Rolls v Miller* cited by Judge Berner above).

31. Mr Gupta says that *Ramsay v Revenue and Customs Commissioners* establishes that residential property letting is a business. Mr Leung counsels greater caution. I agree with Mr Leung. I think I should be cautious of adopting for the purposes of insolvency legislation any holding that relates to taxation, although it is plainly a consideration. I think it is more appropriate to ask what exactly the debtor did and whether, on the ordinary meaning of the words, that appears, on the balance of probabilities to amount to carrying on business.

32. The debtor denies that he carried on business in England during the relevant period: see paragraphs 26, 35-37 and 59 of his witness statement. He denies being the landlord of The Grange. He says,

> "I never signed any tenancy agreement naming me as the landlord nor have I ever been involved in the tenancy or the management of it or the property in any way. I think I have met Mrs Walker but only once ever" (paragraph 26 of his witness statement);

later (paragraph 36) he says what was done

> "was done by my wife Kristina Charles-Jones, who I understand was named on the tenancy agreement, mainly because the intention was that it would be her parents['] property. I have not received any rent for the property from the tenants. My understanding is that monies collected in rent were forwarded by the tenants into the mortgage account. *I have no right to the rent being paid*." (I add the emphasis for reasons to which I shall come.)

33. Notwithstanding the fact that there has been no cross-examination in this case, I reject the debtor's evidence on the basis that it is manifestly incredible and find that he was involved in the letting of The Grange. I do so in the light of the following.

(1) The debtor is named in the tenancy agreement, albeit along with his wife. It is possible that he was not aware of it at the beginning of the tenancy, but it is plainly not the case that he has *never* been involved or received rent (see (3) below).

(2) Mr Durkan gives evidence that Mr and Mrs Walker initially paid the rent on The Grange into an account held by the debtor's wife. There is strong, if not conclusive, evidence that the debtor received the rental income from the Walkers shortly after his wife's bankruptcy (on her own application) on 20 August 2021. The instruction to take that course came not from the debtor but from his wife and is evidenced by a series of text messages exchanged between her and Mrs Walker shortly before the making of the bankruptcy order (in or around 8-10 August, I think – the dates are difficult to read). Thereafter, a £1 test payment was made, which was followed by at least two rent instalments. This, Mr Gupta submits, clearly shows that the debtor was collecting rent from The Grange. The debtor relies on a letter from Coutts to his wife as showing that "the account is not mine" (paragraph 44 g of his witness statement), but the fact that the letter is addressed to Mrs Charles-Jones does not bear that out: it simply indicates that she is an account holder. In any event, the debtor's assertion is at odds with his wife's message to Mrs Walker that "The account is in the name of Nicholas Jones." The debtor has adduced no documentary evidence as to who the account holders are or were.

(3) The most important piece of evidence contradicting that of the debtor as to his involvement with The Grange tenancy is that he has commenced proceedings against the Walkers "for unpaid rent and damages to [The Grange] resulting from a tenancy during the period 1 March 2019 to February 2022." The sum sought in the claim form is £42,714. The claim form is supported by a statement of truth as to the facts contained therein. The debtor can only be claiming as a landlord under the tenancy. He thus says one thing in this court and another in the County Court. His witness statement in these proceedings is dated 4 November 2022. The County Court proceedings must have been issued before then: Mrs Walker's acknowledgment of service is dated 7 September 2022.

Those three points are strong in themselves: their cumulative effect is overwhelming. The debtor's claim to be owed rent and damages and to bring proceedings in his own name (and no other) to recover them can only flow from a real or perceived entitlement, absent any other explanation for the authority to sue.

34. I have now answered points (a) and (b) in paragraph 24. I must now decide whether the activities I have found to have taken place amount to carrying on business. In my view they did.

35. I hesitate to attempt a definition of "business" or "carrying on business" where better legal minds have not done so. I do, however, think that as a matter of ordinary sense the foregoing activities did and do amount to carrying on the business of letting property. I think most people contemplating activity in the form of the provision of goods or services for profit or gain (or perhaps, as Mr Gupta pointed out, some other benefit) would conclude that it amounted to carrying on business. I do. The business which the debtor carried on may not have been on a grand scale, but it has been going on, it seems, for some time, starting at about the time Mrs Charles-Jones was facing bankruptcy and continuing, it seems, even now. The monthly rent is not an insignificant amount: it is an income many people would be happy to have.

36. There is another way of looking at the matter, which is to ask what the debtor was doing if he was not carrying on business. He was not engaged in charitable work, nor was he engaged in a pastime or hobby. Mr Leung gamely posited the possibility that he was an investor, but there is no evidential support for that, and the submission sits uneasily with the reasons the debtor advances for the purchase of the property, namely that it was to belong to his wife's parents.

37. Mr Leung advanced a number of other reasons in support of his contention that his client's activities did not amount to carrying on business. He pointed to the modest scale of them; he pointed to the lack of any employees; and he pointed to the lack of any corporate structure. I am unpersuaded. As I have observed, the rent paid by the Walkers was not modest by the standards of most people, and the total amount claimed in the County Court is significant. Many people carry on business as sole traders and without any corporate structure; indeed the absence of any corporate structure is, in my view, precisely an indicator of carrying on business on one's own account.

38. In his skeleton argument Mr Leung says:

> Even taking the Petitioners' factual case at its highest, all they have shown is that Mr Jones (while he was living in the US) was the 50% owner of a *single* property in England which he let out to a *single* set of tenants from March 2019 to January 2022 (for £3,500 per month). This can hardly amount to the 'carrying on' of a 'business' for the purpose of s. 265. The necessary 'degree of substantiality and continuity' is plainly lacking. If the Petitioners were right, then any foreigner who purchases even a single buy-to-let property in England would suddenly become subject to the English courts' bankruptcy jurisdiction pursuant to s.265(2)(b)(ii) (even if he is not domiciled in England; has no place of residence in England; is not ordinarily resident in England; and does not have his COMI in England). That cannot be correct.

39. For the reasons I have already given, I reject the idea that a business has to be conducted to any specific scale: the sums of money involved cannot be determinative, nor can the number of properties involved. Mr Leung himself declined to draw any "bright line" as to these matters, which in my view are not supported by the case law. As to whether this decision will have implications for foreign purchasers, I say nothing: the task of

this court is to decide the case before it by reference to its facts. Any wider implication for others is irrelevant. They can be argued if they arise by those affected by them.

Result

40. Having found, as I do, that the debtor was carrying on business in the jurisdiction in the relevant period for the reasons I have given and continues to do so, I shall make a bankruptcy order when this judgment is handed down.

41. I end by thanking the solicitors for well prepared bundles and counsel for their helpful skeleton arguments and submissions as well as their patience in dealing with my interventions and questions.