

Case No: PT-2022-000919

Neutral Citation Number: [2023] EWHC 3241 (Ch)

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURT OF ENGLAND AND WALES
PROPERTY, TRUSTS AND PROBATE (ChD)

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

Wednesday, 22 November 2023

BEFORE:

MR JUSTICE MILES

BETWEEN:

Cheryl Plummer

Claimant

- and -

Joshua Jacob Friedlander

Defendant

The Claimant did not appear and was not represented.

Mr D Timson appeared on behalf of the Defendant

APPROVED
JUDGMENT

Mr Justice Miles:

1. This is an application by Mr Friedlander against Ms Cheryl Plummer for a civil restraint order. The application has already been before the courts on three previous occasions in the County Court. On the last of those occasions HHJ Luba KC made an order of 7 October 2022 transferring the matter to the High Court, partly on the basis that it appeared that Ms Plummer was now the claimant in certain High Court proceedings. Mr Friedlander in fact objected to that course on the basis that it would simply be to more costs, but the order was nonetheless made.
2. Miss Plummer has not appeared today and she is not represented. I am satisfied that notice of this hearing has been duly given to Ms Plummer. A notice of the hearing was sent by the court on 21 September 2023 by email and post, and the solicitors for the applicant also sent further emails on 14 November and 20 November 2023 to the three known email addresses of Ms Plummer, one of these being an email address used by her in her communicating with the County Court in some of the underlying proceedings. My clerk has also sought to communicate with Ms Plummer in the run up to this hearing, but has received no response. That is similar to the position before HHJ Luba in October 2022, when there was no communication from Ms Plummer before the hearing, and Ms Plummer did not appear and was not represented. I am satisfied that proper notice has been given to her of this hearing and that she has elected not to participate.
3. I am also satisfied that it is appropriate to continue with the hearing. There would be substantial prejudice to the applicant were the matter to be adjourned yet again. And the court itself has an interest in considering the application for a civil restraint order.
4. There have been five cases concerning the applicant and his solicitors, and Ms Plummer's own conveyancing solicitor, as defendants to proceedings brought by Ms Plummer in the County Court. They relate to a property transaction in which Ms Plummer sold a property at 135 Perth Road, Wood Green, London, N22 5QH ("the property") to the applicant. The sale took place pursuant to an agreement dated 4 August 2016 and the transaction completed on 7 September 2016.
5. In the course of the County Court proceedings, the applicant's solicitors, Messrs Rainer Hughes, who also acted for him in the property transaction, disclosed redacted copies of their HSBC client account statements, which showed payments by the applicant of the total purchase price of £385,000 in August and September 2016.
6. In the underlying claims the essential allegation is that there was some form of "joint enterprise" between the applicant and/or his solicitors, and the solicitors who acted for Ms Plummer in relation to the property transaction. The solicitors who acted for Ms Plummer were called Just & Brown Solicitors.

7. The allegations against the applicant and his solicitors were wholly unparticularised or rationally articulated. The case involved an allegation that the applicant and/or his solicitors had somehow represented that Just & Brown had legal authority to act for the claimant, or that those solicitors had a practicing certificate. No details were given of the alleged representations or the alleged joint enterprise. Another striking feature of the various claims is that they were only intimated in 2019, two-and-a-half years or so after the sale completed.
8. As already explained, there have been five sets of proceedings in the County Court. These are as follows.
9. First, case **G00ED018** between Cheryl Plummer and the applicant. This was an application for pre-action disclosure against the applicant dated 24 December 2019. The application was ultimately dismissed on 21 October 2020 by DDJ Tomlinson.
10. Second, case **G00ED089** between Cheryl Plummer and the applicant. This was commenced on 2 January 2020 by Part 8 claim, and sought an injunction preventing the disposal of the property. The original application was issued at the County Court in Edmonton on 15 January 2020. It was transferred to the County Court in Central London and various orders were made concerning procedural matters. The applicant was not served with the original application or the other documents and accordingly made an application dated 26 March 2020 seeking disclosure of the application notice and evidence in support.
11. On 1 April 2020 HHJ Parfitt struck out the proceedings. The claimant was ordered to pay the applicant's costs. The judge observed in his order that the application was so hopeless as to be an abuse of the process. Ms Plummer issued an application on 7 April 2020 to set aside the order. The applicant served a witness statement from his solicitor which outlined the various requests that had been made to Ms Plummer for the documents, and at the same time on 3 November 2020 issued an application against Ms Plummer for a civil restraint order. That application was supported by another witness statement of his solicitor, Mr Panesar, dated 3 November 2020. That is the application before me.
12. The application to set aside the order of HHJ Parfitt and the CRO application came before HHJ Mark Raeside KC on 6 November 2020, when the matter was adjourned. Ms Plummer then served a statement in response to the CRO application dated 8 November 2020, which I have read. The set aside application and CRO application came before HHJ Monty KC on 18 March 2021, where both parties were represented by counsel.
13. HHJ Monty KC dismissed the set aside application and ordered Ms Plummer to pay the applicant's costs. He adjourned the CRO application. HHJ Monty KC gave a judgment in which he explained at [20] that the underlying claim was so hopeless as to be an abuse of process of the court and had no prospects of

success. He also concluded that the application to set aside HHJ Parfitt's order was hopeless and his order certified it as totally without merit.

14. In his judgment HHJ Monty explained that the application was hopeless for two main reasons: first, that there had been a delay until January 2020 when the claim was issued, which was many years after the original sale had taken place. Second, the claim had been issued for an injunction in respect of matters which were already subject to separate proceedings (to which I will return in a moment) in which there had been such delay, and where the claim was so incoherently and insufficiently pleaded that it was hopeless.
15. The third set of proceedings is case **G78YJ010** between Cheryl Plummer and the applicant. This was a Part 7 claim issued on 5 November 2020 against the applicant and the claimant's own solicitors in respect of the same underlying dispute. This claim was struck out by DDJ Perry as wholly without merit by order of 20 December 2021. In this claim Ms Plummer served Particulars of Claim which made allegations about the supposed joint enterprise and misrepresentations. I have read those pleadings carefully and have concluded that they are totally unparticularised, and that the allegations made in them are embarrassing.
16. An application for permission to appeal the order of DDJ Perry was dismissed by order of HHJ Leathem on 3 March 2022. He did so on the basis, first, that the appeal was out of time, and second, that there was no discernible error in the order of DDJ Perry.
17. The fourth was case **G00ED280** between Ms Plummer and Rainer Hughes. This was an application for pre-action disclosure dated 31 January 2020. The application was dismissed by DDJ Tomlinson on 21 October 2020. The deputy district judge did not in that order state that the application was totally without merit, but I will return to its merits further below.
18. The fifth was a Part 7 claim, **G80YJ530** between Cheryl Plummer and Rainer Hughes in respect of the same underlying dispute. This claim was struck out by DDJ Wilson on 26 January 2021 for failure to serve any Particulars of Claim. It was not marked totally without merit. Again I will return to its merits below.
19. In summary, Ms Plummer has brought five sets of proceedings in respect of the same underlying complaint against the applicant and his solicitors. This has involved a total of 15 sets of cases or applications. All have ultimately been dismissed or struck out.
20. There are three orders which expressly state that the claim or application was totally without merit. The applicant submits that there are other orders which do not expressly state that the claim or application was totally without merit, but

where it can be seen that the claim or application was indeed totally without merit.

21. I have no doubt that the basis of the order of HHJ Parfitt dated 1 April 2020 was that the application was without any conceivable rational basis and was therefore totally without merit. The order said that the claim was so hopeless as to be an abuse of the process. When HHJ Monty KC considered the set aside application, he interpreted HHJ Parfitt as viewing the underlying proceedings as totally without merit, although he did not use those words, and I agree..
22. The order of DDJ Tomlinson dated 21 October 2020 in case G00ED018 did not state that the application (which was for pre-action disclosure) was totally without merit. However, he did say in giving his judgment, according to counsel's note, that he was doubtful the application had any merit. I am satisfied from reviewing the matter retrospectively that the proceedings were indeed totally without merit. There was no proper or cogent basis on which it could rationally have been argued that an order for pre-action disclosure would ever have been justified.
23. The order of HHJ Leathem dated 3 March 2022 did not state that in dismissing the application for permission to appeal he considered the matter to be totally without merit. That was in the context of the application for permission to appeal from the order of DDJ Perry of 20 December 2021. I am satisfied that given the underlying proceedings which were struck out by the deputy district judge were totally without merit, that the application for permission to appeal was also totally without merit.
24. For these reasons, I am satisfied that, as well as the three orders that on their face certify the claim or application in question to be totally without merit, there are three other orders where the court can now conclude, , that the relevant claims or applications were totally without merit.
25. In addition to respondent's conduct in the five sets of proceedings and the orders made in them, there are other matters raised by the applicant which are relevant to the application for a civil restraint order. In this regard the court was able to provide the parties before the hearing with copies of certain orders of the court which are potentially relevant.
26. The first was in proceedings in the High Court, Business and Property Courts, case number **BL-2022-001953**, between Cheryl Plummer as claimant and Hertfordshire Constabulary as defendant, which appear to have been for pre-action disclosure. On 7 March 2023, Master Kaye made an order She dismissed the application. In giving reasons, the master stated that the application did not identify any clear basis for how any of the jurisdictional thresholds under CPR 31.16 were met. The master recorded that the application was bound to fail on this basis alone. She also said that so far as the application could be understood, it sought to obtain disclosure about or release of property removed or held as part of

a criminal investigation, and/or information about its whereabouts, and that this was not the appropriate forum for such an application which was therefore bound to fail on that basis. The master also recorded that it appeared that there was a connection between the proceedings and Leslie Gayle-Childs, who is the subject of a section 42 vexatious litigant order. The master explained that before making the order Ms Plummer was given the opportunity to clarify the position and that the resulting witness statement was confused.

27. The order referred to by the master in respect of Mr Gayle-Childs was dated 8 December 2020 and amended on 2 February 2021. It was made by the Divisional Court and prohibited Mr Gayle-Childs or any third party on his behalf in any court from bringing civil proceedings.
28. The second relevant order of Master Kaye was made in High Court proceedings, case **PT-2023-000403**, between “Cheryl Plummer LP” and a Mr Stephen Flattery and persons unknown. The master recorded in an order of 22 May 2023 that the claims would be struck out by the court of its own initiative and certified as totally without merit. The master in her reasons stated that it appeared to her that Cheryl Plummer LP was connected to Leslie Gayle-Childs, and was therefore within the section 42 order. These connections included that “Cheryl Plummer LP” accepted that it was a “GC family foundation” company. The GC in that name refers to Mr Gayle-Childs. According to the documents in the case, Mr Gayle-Childs was an employee of “Cheryl Plummer LP” in 2022. The other orders in the underlying proceedings referred to Tuscan Trust Holdings Trustees, which was connected with Mr Gayle-Childs.
29. I was also referred by counsel for the applicant to a decision of HHJ Paul Matthews, given in the County Court at Bristol in the case of *Smith v Marston Holdings Ltd & Anor* [2022] EW Misc. 23 (CC). In that judgment, dated 6 October 2020, HHJ Matthews dealt with five sets of proceedings in the County Court, mostly brought in the name of a Mr David Smith. After a painstaking analysis the judge concluded that Mr Gayle-Childs was behind each of the allegations or proceedings, and that he was using Mr Smith's name, sometimes as a direct or agent of another entity, to carry on proceedings against third parties. HHJ Matthews explained in paragraph 92 the various ways in which he had conducted litigation in the past.
30. In the course of his judgment, HHJ Matthews listed a number of connections between Mr Smith and Mr Gayle-Childs, and various entities or addresses. He referred to a firm or entity called Nathan Paralegals, which had purported to instruct counsel acting for Mr Smith. Nathan Paralegals, as HHJ Matthews explained, is not a firm of solicitors or even registered paralegals. It appeared from the evidence possibly to have been a trading name of an offshore company called Payne Crow and Associates, or Payne Crow and Partners. HHJ Matthews also referred to various accommodation addresses used by those bringing the proceedings. These included (a) Unit 601, 394 Muswell Hill Broadway, London N10, and (b) Office 238, 179 Whiteladies Road, Bristol BS7.. The judge also

referred to other entities, including various entities with Tuscany in their name, such as Tuscany Trust Holdings and Tuscany Developments. He also referred to an entity described as DEZ Holdings.

31. Returning to the present case, the documents in the County Court proceedings described earlier share a number of the features enumerated by HHJ Matthews in the *Smith* cases. First, Cheryl Plummer has sometimes given as her address Unit or Suite 238, 179 Whiteladies Road. As HHJ Matthews explained, that is an accommodation address. It is not her actual address. On other occasions, including in witness statements, she has given her address as Unit 601, 394 Muswell Hill Broadway, another accommodation address. Second, a number of the proceedings purport to have been brought on her behalf by Nathan Paralegals (who also gave the same Unit 601, Muswell Hill address). Third, their letter paper refers to Tuscany Developments. Fourth, the documents in the underlying cases refer to DEZ Holdings. In that regard, Mr Panesar has provided unchallenged evidence that an entity called Payne Crow Associates, Ms Plummer and Nathan Paralegals, all have an interest in the company known as DEZ Holdings Limited.
32. In the circumstances I am entirely satisfied that there are clear connections between Ms Plummer and Mr Gayle-Childs in relation to the present proceedings. These points were raised in the evidence for this application and not contested by the respondent. Mr Gayle-Childs to be found by the courts to be a vexatious litigant, including in the proceedings that led to the section 42 order and in the judgment of HHJ Matthews. Moreover, the five sets of proceedings in the County Court in this case have the same hallmarks as the proceedings described by HHJ Matthews, including the use of accommodation addresses on claim forms and witness statements, (in breach of the CPR), purported representation by Nathan Paralegals (which has the appearance of being a legal representative but without there apparently being any regulated firm of that name) and connections with various other entities, including Tuscany Developments and DEZ Holdings.
33. In addition, in the five County Court actions there has been a wholesale breach of the requirements of the CPR, including the service of essential documents on the other party, and the confusing and shambolic presentation of documents.
34. I also note the conclusions of Master Kaye in the orders referred to earlier.
35. The requirements for the various kinds of civil restraint order are accurately explained in the notes to the White Book at paragraph 3.11(2).
36. In *Sartipy v Tigris Industries Inc* [2019] EWCA Civ 225, the Court of Appeal gave guidance on the requirements for making a CRO. I shall not set out the guidance in full here but shall apply it. It is sufficient here to note that at least three claims or applications are the minimum required for the making of a GCRO, but the question remains whether the party concerned has been acting persistently, which will require the evaluation of the parties' overall conduct.

37. Moreover when considering whether to make a restraint order, the court is entitled to take into account any previous applications, and is not limited to considering claims or applications so certified at the time.
38. The threshold requirement for a GCRO is that the person against whom it is sought persists in issuing claims or applications which are totally without merit in circumstances where an extended civil restraint order would not be sufficient or appropriate.
39. I have concluded that this is a case where a GCRO should be made for the following reasons.
40. First, the five sets of proceedings in the County Court, all relating to the same underlying matter, have been dismissed, and in a number of cases the orders for dismissal stated that they were taken without merit. I have reviewed a number of other orders made in those proceedings and concluded that the underlying applications or proceedings were in those cases also totally without merit. The total number of applications or claims either certified as such or now found to me to be totally without merit is six.
41. Second, this is a case of the kind described in *Sartipy* where a party has repeatedly sought to relitigate issues which have already been decided. It is not a case of separate proceedings or applications over many years.
42. Third, there are also the two orders in recent proceedings of Master Kaye. In the second of the orders I have mentioned the master certified the proceedings as totally without merit. In the other case she struck the application out without a hearing and explained why it was essentially hopeless. So there have not only been the repeated proceedings which have been struck out in the County Court, but there have been further, more recent proceedings, in the name of Ms Plummer (or Cheryl Plummer LP, which must be closely related to her) which have been dismissed as hopeless.
43. Fourth, there is a series of connections which have led me to the clear conclusion that Ms Plummer is acting in some way together with Mr Gayle-Childs or entities connected with him. It is not simply the existence of the connections which are concerning, but the fact that the same kinds of steps have been taken in the underlying proceedings as described in the *Smith* cases by HHJ Matthews, including the use of accommodation addresses and representation by Nathan Paralegals. That supports the inference that unless an order is made, more proceedings will be issued and more applications made by or in the name of Cheryl Plummer, which are vexatious.
44. Fifth, there is the manner of in which the County Court proceedings have been conducted (this being in addition to the various totally without merit quality of the claims or applications). The record shows that having brought proceedings

Ms Plummer failed to take the most basic steps, including serving a copy of applications and underlying evidence, and failed to meet various deadlines where documents were provided and bundles served. The documents which were served were disorganised and confusing and the cases were presented in a hopelessly muddled way. Ms Plummer was also persistently in breach of the rules by giving addresses which were no more than post boxes. These factors would not of course themselves justify the order, but in deciding what order to impose they have some relevance. Such conduct leads to adjournments and additional costs. I also note that there have been a number of orders for costs in the underlying proceedings in favour of the applicant, none of which have been paid.

45. The applicant has been faced with repeated hopeless proceedings which he has had to defend at great expense. He has sought this order for a civil restraint order but has even in this application been faced with a number of adjournments. I am satisfied that the court should make a general civil restraint order. I also consider that this judgment should be published, not for any points of principle, but so that other courts may have ready access to a record of the relevant conduct of the respondent if needed.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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This transcript has been approved by the Judge