

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

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

Date: 8 July 2022

Before :

His Honour Judge Mark Pelling QC

Between :

- | | |
|---|-------------------------|
| (1) Eurohome UK Mortgages 2007-1 Plc | <u>Claimant</u> |
| (2) Eurohome UK Mortgages 2007-2 Plc | |
| (3) Saret Holdings Corp | |
| - and - | |
| (1) Intertrust Management Limited | <u>Defendant</u> |
| (2) Intertrust Corporate Services Limited | |
| (3) Intertrust Directors 1 Limited | |
| (4) Intertrust Directors 2 Limited | |
| (5) Ms Paivi Helena Whitaker | |
| (6) Intertrust Nominees Limited | |

Case No: CL-2021-000744

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Between :

- | | |
|---|-------------------------|
| (1) Stratton Mortgage Funding 2019-1 PLC | <u>Claimant</u> |
| (2) Corelli Capital AG | |
| - and - | |
| (1) Intertrust Management Limited | <u>Defendant</u> |
| (2) Intertrust Corporate Services Limited | |
| (3) Intertrust Directors 1 Limited | |
| (4) Intertrust Directors 2 Limited | |
| (5) Ms Paivi Helena Whitaker | |

Charlotte Cooke (instructed by Bryan Cave Leighton Paisner LLP) for the Group 1

Hearing dates: 8th July 2022

RULING

His Honour Judge Mark Pelling QC
(10:58 am)

Friday, 8 July 2022

Ruling by HIS HONOUR JUDGE MARK PELLING QC

1. This is an application made by the claimants for a general or alternatively an extended civil restraint order against the Saret holdings Corporation (“Saret”), whose role in this litigation I explained in the substantive judgment I gave a moment ago.
2. If a general civil restraint order is to be made, it must be proved that the respondent to that application has persisted in issuing claims or making applications which are totally without merit in circumstances where an extended civil restraint order would not be sufficient or appropriate - see Practice Direction 3C, paragraph 4.1.
3. The test that is to be applied when considering making a general civil restraint order is that identified, or rather approved by the Court of Appeal in *Chief Constable of Avon and Somerset v Gray* [2019] EWCA Civ 1675, namely:

"... the question either on an original application for a GCRO or on an application for an extension is whether an order (or its extension) is necessary in order (a) to protect litigants from vexatious proceeding against them and/or (b) to protect the finite resources of the Court from vexatious waste. This question is to be answered having full regard to the impact of any proposed order upon the party to be restrained."

4. The first question therefore and the threshold question is whether or not there has been a persistent issuing of totally without merit claims or applications. This is a test which has to be satisfied whether or not a general or extended civil restraint order is to be made. So far as that is concerned, I am entirely satisfied that there has been a persistent issuing of totally without merit claims and applications for the following reasons. In a judgment I gave in the Hurricane proceedings I identified, at paragraphs 14 and 15, a total of six claims or applications that had

been certified in those proceedings as totally without merit. Since then there have been a number of other totally without merit applications or claims brought or made by Saret, including claim number CL-2021-376, in which, on 3 December 2021, I declared two applications filed by Saret to be totally without merit. In claim number CL-2021-1057, the Clavis rectification proceedings, an order was made on 9 February 2022 by Mr Justice Roth, in which he declared an application filed by Saret on 29 November for a stay of execution of an order made by David Halpern QC, sitting as a deputy judge of the High Court, on 16 July 2021, as being totally without merit. Aside from that, there were some libel proceedings commenced, bearing the number QB-2021/2641, in which an order was made on 1 March 2022 by Senior Master Fontaine that declared an application by Saret to adjourn an application for security for costs in those proceedings as being totally without merit. The libel proceedings ultimately were struck out on 22 March 2022. Finally, there is one further commercial action I should draw attention to, CL-2021-438, where Saret issued a claim against HSBC Bank Plc, and on 4 January 2022, Mr Justice Robin Knowles struck out those proceedings and certified the claim to be totally without merit. In those circumstances and for those reasons, it is manifestly plain that there have been a persistent issuing of totally without merit actions.

5. When considering whether or not to make an extended or general civil restraint order, the general principle is that one should make the order which is least intrusive, but which at the same time achieves the purpose for which the order is being made. To do otherwise would be disproportionate. I am entirely satisfied however, that in the circumstances of this case an extended civil restraint order is unlikely to provide an answer to the problem, as is illustrated by the fact that Saret has continued to issue claims and applications that are totally without merit, notwithstanding extended civil restraint orders have been made in earlier proceedings. Whilst of course those extended civil restraint orders technically could not prevent the commencement of

these proceedings, the fact that other proceedings, equally vexatious and totally without merit, have been commenced since that order was made illustrates the nature of the problem.

6. I return therefore to the test identified in *Chief Constable of Avon and Somerset v Gray* and move from the jurisdictional requirement to be satisfied to consider the exercise of discretion as to whether or not an order should be made. As that case emphasises, a general civil restraint order should not be made unless it is necessary in order to protect litigants from vexatious proceedings against them and/or to protect the finite resources of the court from vexatious waste.
7. In my judgment both of those requirements are manifestly satisfied in the circumstances of this case as against Saret. My reasons for reaching that conclusion are as follows. First, as I have already set out, there have been numerous previous claims and applications across the High Court in which claims have been commenced which have been struck out, often being certified as totally without merit when being struck out, and numerous applications have been issued, which again have been certified as totally without merit. That demonstrates two things. First of all, it demonstrates a necessity for litigants to be protected from vexatious proceedings against them in the circumstances that I have summarised. There has been a wide-ranging attempt by these various entities, including in particular Saret, to take over legitimate and often publicly quoted businesses, to expose those businesses to enormous legal costs for the purposes of protecting themselves from entirely unwarranted and unlawful interference, and therefore to spend money which ought to be preserved in the interests of shareholders. That plainly satisfies the requirement for a need to protect litigants from vexatious proceedings.
8. The second point concerns the need to protect the finite resources of the court. As will be apparent from what I have said already in this judgment, there have been now at least 12 cases involving Saret in which applications or claims have been struck out or dismissed as totally without merit. Each of them has required a hearing. Each of them have required a hearing in a

court in person, because it is alleged on entirely persuasive grounds that at least some of the individuals who stand behind the Marshall Islands entities that feature in this litigation simply do not exist and are pseudonyms of Mr Hussain. In order to force the issue concerning the identification of the individuals concerned it has been necessary to list these hearings in open court, and on each and every occasion there has been no appearance by the respondents to the strikeout applications, but nonetheless it takes up the time of judges across the High Court for significant numbers of hours. It involves the generation of very significant numbers of judgments and therefore the second requirement identified in *Chief Constable for Avon and Somerset* is satisfied as well.

9. Pulling all that together, I am satisfied, first of all, that there has been a plain persistence on the part of Saret in issuing claims or making applications which are totally without merit, which manifestly exceed the minimum three that would be required in order to satisfy that requirement. Making an extended civil restraint order in the circumstances of this case will at best protect only the claimants in these proceedings when plainly a wider protection is called for. For the reasons I have given, I am satisfied that it is necessary to make a general civil restraint order in the interest of protecting litigants and protecting court resources, and in those circumstances I propose to make a general civil restraint order against Saret. The application judge will be me. The alternate will be Mr Justice Foxton