



THE COURT OF APPEAL

Neutral Citation Number: [2021] IECA 138

Record Number: 2018/357

High Court Record Number: 2012/8784P

Birmingham P.

Whelan J.

Noonan J.

BETWEEN/

CHENG ZHANG

PLAINTIFF/APPELLANT

-AND-

STEPHEN FARRELL

DEFENDANT/RESPONDENT

RULING of The Court delivered on the 10th day of May, 2021

1. The principal judgment herein was delivered on the 5th March, 2021 allowing the plaintiff's appeal and dismissing the defendant's cross-appeal. In the concluding section of the judgment, the court provisionally indicated its view that as the plaintiff had been successful in the appeal, she should be entitled, as an unrepresented party, to her reasonable expenses in the matter and also to her costs of the High Court while she was legally represented, such costs to be adjudicated on the basis of the award of this court.

2. The court gave liberty to the parties if either wished to contend for an alternative costs order to file a written submission not exceeding 1,000 words within 14 days. At para. 67, the court noted that an order had previously been made by the High Court on the 16th August, 2018, on foot of an application by the plaintiff's former solicitors, Messrs. H. J. Ward & Co., pursuant to s. 3 of the Legal Practitioners Act, 1876 charging the damages and costs recovered by the plaintiff with the plaintiff's costs including any solicitor and client costs when taxed and ascertained. The court gave liberty to Messrs. H. J. Ward & Co. to be notified of the judgment and liberty to make any further application that might arise concerning the costs issue.

3. On the 19th March, 2001, Messrs. H. J. Ward and Company corresponded with the Court of Appeal Office in accordance with the terms of the judgment seeking an order authorising them to participate in the party and party taxation/adjudication of the costs of the High Court, such participation to be limited to the solicitor's bill of costs as furnished and lodged in the Taxing Masters Office, now known as the Office of the Legal Costs Adjudicators of the High Court together with an order directing the defendant to pay to the said solicitors such sum in respect of their costs as may be agreed or in default, as may be taxed/adjudicated and ascertained. The plaintiff was notified of this correspondence and has raised no objection to those orders being made. Accordingly, the court is satisfied that such orders are proper and appropriate ones to be made by this court.

4. However, by correspondence dated 6th April, 2021 furnished to the Court of Appeal Office, the plaintiff has purported to make further submissions and seek further orders on a range of issues other than the question of costs, for which liberty to make submissions was granted. These include an application to this court to review an order of Costello J. made on the 30th October, 2020 refusing the plaintiff's application to adduce new evidence on

the appeal together with liberty to take up the DAR of the hearing before Costello J. She also seeks that this court should not stay the order for damages or costs made in the principal judgment, despite the fact that no such application has been made. She further seeks certain directions concerning Messrs. H. J. Ward's bill of costs.

5. Leaving aside the fact that the plaintiff's submissions were received outside the permitted time and exceed the permitted word count, none of these matters properly arise from the permission granted in the principal judgment to make submissions concerning costs or take any issue with the costs order originally proposed. This appeal is finally concluded and there is in any event no basis for interfering with any order made by Costello J. That would be a matter solely for the Supreme Court in the event that it grants leave to appeal to the plaintiff. Nor is there any basis for making an order concerning the relevant bill of costs of H. J. Ward & Co. sought by the plaintiff.

6. Accordingly, it would not be appropriate for this court to make any further order in this matter beyond the costs order proposed in the principal judgment and the orders sought by H. J. Ward and Company.