



**UNAPPROVED**

**THE COURT OF APPEAL**

[2021] IECA 190  
Record Number: 2018/91

**Faherty J.  
Haughton J.  
Murray J.**

**BETWEEN/**

**THOMAS MORRIN**

**PLAINTIFF/  
APPELLANT**

**- AND -**

**MICHAEL CONDON AND RONALD WEISZ**

**DEFENDANTS/  
RESPONDENTS**

**Ruling of Ms. Justice Faherty delivered on the 8<sup>th</sup> day of July 2021**

1. Judgment in this matter was delivered by the Court on 3 April 2020 (“the principal judgment”). The plaintiff/appellant’s appeal was dismissed.
2. The defendants/respondents seek their costs on the basis, effectively, that they were entirely successful in the appeal. In their written submissions of 30 October 2020, they advance the following arguments in support of their claim for their costs:

- (a) The plaintiff was unsuccessful on all points in the appeal;
- (b) The plaintiff advanced, inter alia, a case alleging fraud as against the defendants and the Court noted, at para. 50 of the principal judgment, that not a scintilla of evidence had been put forward to substantiate such a case;
- (c) The Court also found that the case in fraud was not made in the High Court and that other aspects of the appeal, including the claim under the Unfair Terms in Consumer Contracts Regulations 1995 had likewise not been made in the High Court.

Accordingly, they submit that the appropriate order is an order dismissing the appeal, an order affirming the orders of the High Court, including as to costs in the court below and a costs order in favour of the defendants in relation to the appeal.

3. No submissions on costs has been made by the plaintiff following communications by the Court.

### **Decision**

4. The rule in Order 99 rule 1 (4) of the Rules of the Superior Courts (“RSC”) that “[t]he costs of every issue of fact or law raised upon a claim or counterclaim shall, unless otherwise ordered, follow the event” is now reflected in s.169 of the Legal Services Regulation Act 2015 (“the 2015 Act”), which provides that “[a] party who is entirely successful in civil proceedings is entitled to an award of costs against a party who is not successful in those proceedings unless the court orders otherwise...”. A list of factors by reference to which the Court may depart from the normal rule is set out in s.169(1). None of those factors is engaged in this case.

5. As the defendants were entirely successful in the appeal, as reflected in the principal judgment, and there being no reason why the Court should depart from the normal rule,

whether under s. 169 of the 2015 Act or the previous Order 99 RSC, the Court will affirm the Order of the High Court and award the defendants their costs of the appeal to be adjudicated in default of an agreement.