APPROVED **[2024] IEHC 235**

THE HIGH COURT

Record No: 2023/3172 P

Between:

LAKSMEE BISSESSUR

Plaintiff

-AND-

EVELYN McMILLEN

Defendant

JUDGMENT of Mr Justice Rory Mulcahy delivered on 26 April 2024

Introduction

1. Adeline Keppel died intestate on 25 April 2001. Her sister, Rita Keppel died, also intestate, on 7 January 2011. Prior to their deaths, the sisters lived at a property in East Wall in the City of Dublin, of which Adeline remains the registered owner. This property is the main asset in their estate.

2. On 10 February 2020, the defendant made an *ex parte* application for an order pursuant to section 27(4) of the Succession Act 1965 granting her liberty to apply for and extract a grant of letters of administration intestate in the estate of Rita Keppel. The High Court (Hyland J) granted the order sought. On 8 February 2021, the High Court (Allen J) made a similar order in respect of the estate of Adeline Keppel on foot of a similar application by the defendant. The defendant made both applications on the basis that she had been identified as the daughter of a second cousin of Rita and Adeline Keppel. On foot of the orders made, the defendant extracted grants of letters of administration in both estates on 23 May 2022.

3. When making the first application, the defendant relied on an affidavit of a professional genealogist, Stephen Smyrl, sworn on 10 February 2020. Mr Smyrl wasn't referred to in Ms McMillen's affidavit grounding the application for the grant, and in oral submissions before this court, counsel for the plaintiff queried whether his affidavit had been before the court when the application was made. Although counsel for the defendant confirmed that it had been opened to the court in the earlier application, the query was repeated in supplemental submissions filed on behalf of the plaintiff after the hearing of this motion. I can confirm, having listened to the Digital Audio Recording of the application on 10 February 2020, that the affidavit was before the court on that day and opened in full.

4. The affidavit of Mr Smyrl explained that the genealogist had opened his file on the matter in response to an advertisement from the Chief State Solicitor's Office dated 29 February 2012 seeking next of kin in Rita Keppel's estate. The affidavit averred that Mr Smyrl was "*very familiar with the estate of Rita Keppel*" and that her closest living relatives were second cousins, once removed, namely Florence Chambers and Grace Roberta McNally, who, he averred, shared common great grandparents, William Stone and Anne Wynne. He averred that Florence Chambers had died on 13 February 2016 and Grace McNally had died on 27 April 2018. He averred that Ms Chambers' daughter, Evelyn McMillen, the defendant, was the closest living next of kin that he had identified.

5. In both section 27(4) applications, the court was informed that time was of the essence as the East Wall property, the only known asset in the sisters' estates, was being occupied by squatters and it was the intention of the estate to issue proceedings to protect this asset. Circuit Court proceedings were commenced in June 2022, as described below.

6. These proceedings were commenced on 29 June 2023. The plaintiff seeks an order setting aside the High Court orders referred to above, and annulling the grants of the letters of administration, on the basis that, at the time that the defendant applied for the grants, she "*well knew*" that there were second cousins of the Keppel sisters who remained alive and therefore had priority of entitlement to extract the grants, pursuant to Order 79, Rule 5(9) of the Rules of the Superior Courts. Five such second cousins are named in the Plenary Summons. No basis for the plea that the defendant "well knew" of the existence of surviving

second cousins is set out in the Plenary Summons, nor has any been identified in the course of this application. The plaintiff, therefore, seeks to set aside orders of the High Court on the basis that they were, in effect, obtained by fraud but has not to date set out in her pleadings, or anywhere else, an evidential basis for that claim.

7. The most striking aspect of these proceedings, however, is that the plaintiff is not one of the second cousins who, it is contended, had priority over the defendant. She does not claim to be a relation of either Keppel sister, to have any entitlement to have extracted grants of letters of administration herself, or any entitlement as a beneficiary of either sister's estate. She doesn't claim any interest in the administration of the estate at all. Her only interest in the matter is that she, together with another individual, are currently occupying the property in East Wall, which is the main asset in the estate of the Keppel sisters. She is, in fact, one of the squatters referred to in the applications pursuant to section 27(4).

8. It seems that neither the plaintiff nor the other individual have any legal entitlement to be in the property. As noted above, on 21 June 2022, the defendant, as personal representative of the estates of Rita and Adeline Keppel, commenced proceedings in the Circuit Court by Equity Civil Bill entitled *McMillen v Smith and Bissessur*, Record No. 002298/2022, seeking vacant possession of the East Wall property. On 14 November 2023, the Circuit Court made an order in those proceedings, directing the defendants in those proceedings, including the plaintiff herein, to vacate the premises within fourteen days. That order was the subject of judicial review proceedings, which were dismissed in a judgment of the High Court (Farrell J) delivered on 24 April 2024.

9. Prior to the determination of those Circuit Court proceedings, the defendant issued this application to strike out the plaintiff's case, pursuant to Order 19, Rule 28 of the Rules of the Superior Courts or, in the alternative, pursuant to the inherent jurisdiction of the Court.

The Plaintiffs' Case

10. The only pleading in the case thus far is the plaintiff's Plenary Summons, which contains the bare pleas described above. The plaintiff has, however, sworn two affidavits in response to this motion in which she elaborates somewhat on her claim. In addition, her

solicitor has sworn an affidavit exhibiting the transcript of the Circuit Court proceedings referred to above.

11. In her affidavits, the plaintiff contends that she "*has caused enquiries to be made*" which, she says, establish that there are second cousins of Rita and Adeline Keppel still alive, who have priority over the defendant in the administration of the estates. She says and believes that there were approximately twenty second cousins alive at the date of Rita Keppel's death, which is "*established from materials in the public domain*." Notably, given her criticisms of the defendant's affidavits grounding the section 27(4) applications, she didn't initially explain the nature of the enquiries that had been made, by whom they had been made, or the materials in the public domain upon which she relies. In her final affidavit, she refers to her information as having been provided by Timeline Genealogy Ireland but provides no documentation from that organisation. In that affidavit, she names two living relatives of the Keppel sisters who, she claims, have priority over the defendant regarding the administration of the estate.

12. The plaintiff's affidavits claimed that she had been in occupation of the East Wall property since the death of Rita Keppel. She raised queries about whether Rita Keppel and Adeline Keppel were, in fact, sisters by reference to the fact that their birth certificates record them as having different mothers. The plaintiff appears to accept that they both lived at the East Wall property. She also queried whether the defendant and the Keppel sisters shared a common ancestor. She contends that the common ancestry depends on the defendant's great grandfather, William Stone, being a brother of Adeline Keppel's grandmother, Rachel Stone, but claims that the marriage records for William and Rachel indicate that their father's names were John and William, respectively, thus creating a doubt about the common ancestry. The plaintiff does not assert that her enquiries with Timeline Genealogy Ireland cast any doubt on whether the Rita and Adeline were sisters, or whether they shared a common ancestor with the defendant.

13. The plaintiff criticises the affidavits sworn by the defendant in the applications for the grants of letters of administration for not making clear that her means of knowledge for her relationship to the Keppel sisters was the information provided by Mr Smyrl. The defendant is also criticised for having described Grace McNally as still living in her affidavit sworn in the first section 27(4) application, despite the fact that she had already died by the time the

affidavit was sworn. In fact, the defendant's solicitor had confirmed in a further affidavit sworn prior to the making of the first application that he had contacted Ms McNally's solicitor shortly after the defendant's affidavit was sworn and was advised then that Ms McNally had passed away the previous year. Mr Smyrl's affidavit also refers to Ms McNally as having passed away.

14. As noted above, the defendant issued proceedings in the Circuit Court against, *inter alia*, the plaintiff seeking possession of the East Wall property. The plaintiff's defence to those proceedings sought to put in issue the defendant's entitlement to bring the proceedings on the basis that she hadn't been entitled to take out the grants of the letters of administration and therefore was not entitled to maintain those proceedings as personal representative of the sisters' estates. It also included a claim that the proceedings were barred by sections 13 and 14 of the Statute of Limitations Act 1957, *i.e.* that she had a claim to adverse possession of the East Wall property.

15. The plaintiff put the transcript of the Circuit Court hearing in evidence in this application. As appears therefrom, the defendant gave evidence in those proceedings and was forcefully cross-examined by counsel for the plaintiff, and it was suggested to the learned Circuit Court judge that the section 27(4) orders had been obtained in the High Court on the basis of "blatant lies". Though the plaintiff's supplemental submissions purport to identify inconsistencies in Ms McMillen's evidence, the matters most noteworthy from the transcript are, first, the refusal of the learned Circuit Court Judge to look behind the grants of letters of administration, and second, the fact that the defendant didn't tender *any* evidence in the Circuit Court proceedings. In this regard, no evidence was tendered to suggest that the defendant had acted dishonestly in seeking to extract the grants, or for suggesting that she knew that there were others who had priority of entitlement to extract the grants. Nor was any evidence adduced to support the plea of adverse possession. Noting the plaintiff's averment that she has been in occupation of the property since Rita Keppel's death in January 2011 and the date of the commencement of the Circuit Court proceedings in June 2022, the reason that that plea wasn't pursued may be self-evident, but in any event, the plaintiff, when given the opportunity to do so, failed to assert any legal entitlement to be in or remain in possession of the East Wall property.

Motion to Strike Out

16. The defendant issued this motion on 16 October 2023, seeking to strike out the plaintiff's proceedings on the basis that she had no *locus standi* to pursue them, and on the basis that the proceedings were being pursued merely to serve the plaintiff's own interests in remaining in the East Wall property for as long as possible, that is, for an improper purpose.

17. The plaintiff's affidavits are described above. In her affidavits, the defendant denied any wrongdoing. She also noted that she had been required to take out an Administration Bond for twice the gross value of the estate, which bond requires her to administer the estate according to law and distribute all shares in the estate to those entitled in law. She avers that investigations into the tracing of all second cousins were ongoing. She does not dispute that there may be such second cousins who have an entitlement to a share in the estate.

Applicable Principles

i. Applications pursuant to section 27(4) of the Succession Act 1965

18. Section 27 of the Succession Act 1965 provides as follows:

(1) The High Court shall have power to grant administration (with or without will annexed) of the estate of a deceased person, and a grant may be limited in any way the Court thinks fit.
(2) The High Court shall have power to revoke, cancel or recall any grant of administration.
(3) Subject to subsection (4), the person or persons to whom administration is to be granted shall be determined in accordance with rules of the High Court.
(4) Where by reason of any special circumstances it appears to the High Court (or, in a case within the jurisdiction of the Circuit Court, that Court) to be necessary or expedient to do so, the Court may order that administration be granted to such person as it thinks fit.

19. Section 27(6) provides that a person to whom administration is granted shall have the same powers as the executor of an estate.

20. As appears from section 27(4), the court can make an order that administration be granted to any person it thinks fit, there is no necessity for the person to be related to the deceased, or that they be a potential beneficiary of the estate. All that is necessary is that some "special circumstance" be identified such that it is necessary or expedient that administration be granted to that person.

21. In accordance with section 27(3), Order 79, Rule 5 of the Rules of the Superior Courts provides that persons having a beneficial interest in an intestate estate shall be entitled to a grant of administration in the following order of priority:

(a) the surviving spouse or, as the case may be, the surviving civil partner;

(b) the surviving spouse or, as the case may be, the surviving civil partner jointly with a child of the deceased nominated by the said spouse;

(c) the child or children of the deceased (including any person entitled by virtue of the Status of Children Act 1987, to succeed to the estate of the deceased);

(d) the issue of any child who has died during the lifetime of the deceased;

(e) the father or mother of the deceased or where the presumption contained in section 4A(2) of the Succession Act 1965 (inserted by section 29 of the Status of Children Act 1987) applies, the mother;

(f) brothers and sisters of the deceased (whether of the whole or half-blood);

(g) where any brother or sister survived the deceased, the children of a predeceased brother or sister;

(h) nephews and nieces of the deceased (whether of the whole or half-blood);

(i) grandparents;

(j) uncles and aunts (whether of the whole or half-blood);

(k) great grandparents;

(l) other next-of-kin of nearest degree (whether of the whole or half-blood) preferring collaterals to direct lineal ancestors;

(m) the nominee of the State.

22. Order 79, Rule 5(3) sets out how the Probate Office should decide to whom to grant administration where there are competing claims.

23. The plaintiff refers to the decision of the High Court (Stack J) in *Re Joseph Kelly, deceased* [2024] IEHC 87 regarding the steps which should be taken when making an application pursuant to section 27(4). In that case, a financial institution sought to have a nominated solicitor appointed as administrator to the deceased's estate for the purpose of defending proceedings that it proposed to take against the estate for the recovery of monies payable on foot of three loans and of properties secured on those loans. There was no evidence that the financial institution had sought to contact family members. Before making the order sought, the court gave directions that some effort to contact family members should be made, which directions are referenced in the judgment:

"6. Nevertheless, I do not think it would be appropriate to make an order pursuant to s. 27 (4) without requiring a lender to take some reasonable steps to identify the family members entitled to take out a grant or, at the very least, by writing to those entitled to represent the deceased at his or her last place of residence."

24. Those directions having been complied with, and there being no indication that any other person intended to take out a grant, the court made the order pursuant to section 27(4) appointing the nominated solicitor as administrator.

ii. Applications to set aside Court Orders

25. The circumstances in which a court order will be set aside are extremely limited. One such circumstance, however, is where the court order is obtained by fraud. In *Talbot v*

McCann FitzGerald [2009] IESC 25, the Supreme Court (Denham J) summarised the grounds upon which a final order could be set aside:

> *"31.7 The Constitution expressly states that the decision of the Supreme Court shall in all cases be final and conclusive. In rare circumstances the Court has jurisdiction to vary a final order. This may arise (a) where there has been an accidental slip in the judgment; (b) where the judgment as drawn up does not correctly state what the Court intended and decided; (c) in separate proceedings for fraud; (d) in rare and exceptional cases to protect constitutional rights and/or justice."*

26. The plaintiff also refers to the decision of Barton J in *Shaughnessy v Nohilly* [2016] IEHC 141 (cited with approval in *Heaphy v Murphy and Ors* [2018] IEHC 141) who commented as follows of the defence of *ex turpi causa non oritur actio*:

> *"130. The basis and exercise of the power to bar recovery in tort on the ground of the Plaintiff's immoral or illegal conduct is founded in the duty of the Court to preserve the integrity of the legal system; the exercise of that power should be confined to circumstances in any given case where concern for that matter arises. In the context of a civil suit for damages such would arise in circumstances where the party bringing the proceedings, if permitted to recover would, in effect, profit from illegal or wrongful conduct."*

iii. Applications to strike out proceedings

27. In *Scotchstone Capital Fund Ltd v Ireland* [2022] IECA 23, the Court of Appeal summarised the principles applicable to applications to strike out proceedings (at para. 290):

> *"In essence these are:*
> *a) An application for a strike out of a plaintiff's claim on the basis of the inherent jurisdiction is not a substitute for summary disposal of a case;*
> *b) The jurisdiction exists, not to prevent hardship to a defendant from defending a case, but to prevent against an abuse of process of the court by the plaintiff, e.g. causing a manifest injustice to the defendant in being asked to defend a case which is bound to fail;*

c) The burden of proof is on the defendant;

d) There is a degree of overlap between bound to fail jurisprudence and cases which are held to be frivolous and vexatious. However, the latter are cases which may have a reasonable chance of success but would confer no tangible benefit on a plaintiff or are taken for collateral or improper motives or where a plaintiff is seeking to avail of scarce resources of the courts to hear a claim which has no prospect of success;

e) The standard of proof is on the defendant/respondent to show that the claim is bound to fail or frivolous or vexatious;

f) Bound to fail may be described inter alia, as devoid of merit or a claim that clearly cannot succeed;

g) Frivolous and vexatious must be understood in their legal context as claims which are, inter alia, futile, misconceived, hopeless;

h) The threshold for the plaintiff successfully to defend such a motion is not a prima facie case but a stateable case;

i) It is a jurisdiction only to be used sparingly, in clear cut cases and where there is no basis in law or in fact for the case to succeed;

j) The court must accept that the facts as pleaded by the plaintiff in considering whether an Order pursuant to O.19, r. 28 may be made but in the exercise of its inherent jurisdiction the court can to some extent look at and assess the factual basis of the plaintiff's claim;

k) Where the legal or documentary issues are clear cut it may be safe for a court to reach a conclusion on a motion to dismiss;

l) Even where a plaintiff makes a large number of points, each clearly unstateable, it may be still safe to dismiss; and

m) In some cases, even if the factual disputes are clear cut or may be easily resolved, the legal issues or questions concerning the proper interpretation of documentation may be so complex that they are unsuited to resolution within the confines of a motion to dismiss."

28. In *Lopes v. Minister for Justice Equality and Law Reform* [2014] IESC 21; [2014] 2 IR 301, the Supreme Court (Clarke J) emphasised the distinction between the jurisdiction under the Rules and the court's inherent jurisdiction:

"[17] The distinction between the two types of application is, therefore, clear. An application under the RSC is designed to deal with a case where, as pleaded, and assuming that the facts, however unlikely that they might appear, are as asserted, the case nonetheless is vexatious. The reason why, as Costello J. pointed out at p. 308 of his judgment in Barry v Buckley *[1981] I.R. 306, an inherent jurisdiction exists side by side with that which arises under the RSC is to prevent an abuse of process which would arise if proceedings are brought which are bound to fail even though facts are asserted which, if true, might give rise to a cause of action. If, even on the basis of the facts as pleaded, the case is bound to fail, then it must be vexatious and should be dismissed under the RSC. If, however, it can be established that there is no credible basis for suggesting that the facts are as asserted and that, thus, the proceedings are bound to fail on the merits, then the inherent jurisdiction of the court to prevent abuse can be invoked."*

29. In *Rippington v Ireland* [2019] IEHC 53, the High Court (Simons J) considered an application to strike out proceedings seeking to challenge an interlocutory order made in earlier probate proceedings. The court concluded that the proceedings should be dismissed on a variety of grounds, including the plaintiff's lack of standing (para 84 et seq.):

"As it happens, however, there is an additional reason why these proceedings are destined to fail. Ms Rippington is unable to point to any loss or damage suffered by her personally as a result of the alleged invalidity of the order. Even if it had been established that a loss was caused to the estate— and the evidence is entirely to the contrary—Ms Rippington does not have standing to make any claim in this regard in circumstances where she is not a beneficiary of the estate nor would she have been a beneficiary on intestacy.

85. In the circumstances, it is doubtful whether Ms Rippington has any legal standing to maintain these proceedings. The appropriate plaintiff in proceedings alleging damage to an estate is the executor of that estate. In the present case, the lawful executor of the estate of the late Celine Murphy is Michael Cox.

86. Even if one adopted a generous approach to standing, and allowed that proceedings might properly be maintained by the person who would benefit in the event of intestacy,

such proceedings would have to have been taken by the executor of the estate of the late Miss Murphy's mother, Catherine Murphy. Ms Rippington is not the lawful executor of that estate, and any interest which she may allege as a result of her being one of the four beneficiaries under her late mother's Will is not sufficient to allow her to maintain proceedings in the present form.

87. Leaving aside for the moment Ms Rippington's legal standing to maintain the proceedings, it is, in any event, well established that proceedings will be regarded as vexatious if such proceedings do not confer any practical benefit on the plaintiff. For the reasons set out above, even if she could succeed in the case—which she cannot—there would be no practical benefit to Ms Rippington. This represents a further ground for striking out the proceedings."

Application to the Plaintiff's case

30. The primary ground on which the defendant seeks to have the plaintiff's case dismissed is that the plaintiff has no standing to bring the claim. The orders which the plaintiff seeks to have set aside are orders granting the defendant liberty to extract grants of letters of administration in the estates of Rita and Adeline Keppel. The plaintiff claims no interest in those estates. She had no entitlement to take out a grant of administration herself. As in *Rippington*, even if there were a basis for a claim to set aside the grants of administration to the defendant, that claim could only be advanced by a person asserting an entitlement to have taken out a grant in priority to the defendant.

31. None of this is disputed by the plaintiff, who does not assert any interest in the East Wall property, the main asset of the estates, other than as a squatter, or identify any basis upon which she might benefit from the orders she seeks other than obtaining an indirect benefit in preventing or delaying the actions of the defendant, as administrator, in seeking to recover possession of the property. Rather, the plaintiff claims that she should be permitted to pursue these proceedings in order to protect the integrity of the court process because she is seeking to set aside orders which she alleges were obtained by fraud.

32. Firstly, I should say that it seems to me that the allegation of fraud is, at this stage, wholly unsubstantiated, notwithstanding the special position which applies when pleading such a case. The Rules of Court require that a plea of fraud is fully particularised. The reasons for this have been addressed by the Supreme Court in *Keaney v Sullivan* [2015] IESC 25: having regard to the seriousness of such an allegation, it would be unfair to require a party to meet a claim of fraud without having a reasonable idea of the factual matters on which the allegation is based. Notably, an allegation of fraud is sufficiently serious that the Bar Council's Code of Conduct expressly prohibits counsel from settling a pleading alleging fraud without having satisfied themselves that there will be evidence available at trial to support such a claim (see also *Hanley v Finnerty* [1981] ILRM 198). Despite having had the opportunity to cross-examine the defendant in the Circuit Court, and having sworn two affidavits in this application, the plaintiff has put nothing at all before the court to suggest that the defendant "*well knew*" that she wasn't entitled to the impugned orders or had obtained them for some fraudulent or dishonest purpose.

33. Moreover, the claim that the defendant obtained the orders on a fraudulent basis is entirely fanciful. Any person may be granted administration of an estate pursuant to section 27(4) of the Succession Act 1965 where the court considers that there are special circumstances which make it appropriate to make such an order. The making of an order is not contingent on that person establishing their position in the order of priority. In this case, the High Court was satisfied on the evidence available to make the orders sought. Notwithstanding the plaintiff's complaints about the quality of the evidence, this is wholly unsurprising. As noted by Stack J in *Re Joseph Kelly, deceased*, some effort should be made to contact the family of the deceased before seeking an order under section 27(4). The evidence of Mr Smyrl was to the effect that the Chief State Solicitor's Office had advertised for next of kin as long ago as 2011, and yet no person had come forward since then to take out a grant. The purpose in taking out the grant was to protect the assets in the estate, empowering the defendant, as administrator, to take proceedings to secure possession of the estate's main asset from squatters, clearly a special circumstance within the meaning of section 27(4).

34. The grant of administration does no more than entitle the defendant to administer the estate. It confers no benefit on Ms McMillen, rather it appears that taking out of the letters of grant has imposed *obligations* on her to protect the assets of the estates. She has had to

take out an Administration Bond, institute Circuit Court proceedings to secure possession of the East Wall property, and has been subjected to these proceedings. She is required to administer the estate in accordance with the law. There is no allegation, still less any evidence, that Ms McMillen will not perform her duties as administrator as required by law. If there is anything untoward in her actions, it is very difficult to understand what her purpose might be.

35. Be that as it may, as the Supreme Court made clear in *Talbot*, a court *does* have jurisdiction to set aside an order granted on the basis of fraud. Where such a claim is made, it should be pursued by way of new proceedings. It also appears that section 27(2) of the Succession Act 1965 empowers the court to revoke, cancel or recall a grant, though that statutory provision hasn't been invoked by the plaintiff. In the circumstances, notwithstanding the inadequacy of the pleading, and the absence of evidence to support an allegation of fraud despite the opportunity to adduce such evidence in this application, I might have considered it premature to strike out proceedings prior even to the delivery of a Statement of Claim, if the claim had been advanced by a person entitled to seek the relief claimed. But there is nothing in the jurisprudence to suggest that a party who is not affected by an order alleged to have been fraudulently obtained could have standing to bring proceedings to set aside that order. None of the authorities cited by the plaintiff, *Talbot*, *Shaughnessy* or *Heaphy*, provide any support for such a jurisdiction. Even where proceedings to set aside a court order are based on an allegation of fraud, there is a requirement that a plaintiff have *locus standi* to maintain those proceedings. There is no general right in the public to police court orders made in proceedings in which they have no interest.

36. The plaintiff has no entitlement to pursue proceedings where the orders sought can confer no direct benefit on her. The plaintiff doesn't seek to be appointed as administrator in place of the defendant, nor assert any basis upon which she might be so entitled. She, therefore, has no standing to challenge the defendant's appointment. Where she so clearly has no standing to challenge the orders made, these proceedings are, to borrow the description of Simons J in *Rippington*, the *"epitome of vexatious litigation"*.

37. The only other argument pursued by the plaintiff is equally misplaced and merely tends to reveal the plaintiff's true purpose in bringing these proceedings. The plaintiff claims that

the court has standing to maintain the proceedings because the defendant is seeking to deprive her of her home and she refers to *dicta* of the Court of Appeal (Whelan J) in *Pepper Finance v Persons Unknown* [2022] IECA 170 (at para. 95) to the effect that even squatters have protection under Article 40.5 of the Constitution. It is not entirely clear what relevance the plaintiff contends the observations of Whelan J have to her situation, but on no analysis is the defendant seeking to deprive the plaintiff of her home in these proceedings, nor do the grants of administration purport to deprive the plaintiff of her home or entitle the defendant to do so. Rather, it was the Circuit Court proceedings in which possession of the East Wall property was sought. If the plaintiff wished to assert any purported entitlement by reason of that property being her home, it was in those proceedings that she ought to have done so. As appears from the pleadings and the transcript of the hearing in the Circuit Court, no such argument was advanced. Her status as a squatter in an asset of the estate couldn't possibly give her standing to challenge orders made by this court regarding the administration of that estate.

38. The fact that the plaintiff advanced this argument only tends to support the defendant's claim that these proceedings have been pursued for an improper purpose, an attempt to frustrate the possession proceedings in the Circuit Court, rather than because of any *bona fide* claim in these proceedings. It is not, however, necessary to determine whether the proceeding should be dismissed on that basis. I am satisfied that the plaintiff has no standing to maintain her claim and that they are therefore bound to fail. I will, therefore, make an order dismissing the proceedings in the exercise of the court's inherent discretion.

39. I will list the proceedings at 10.30 am on 10 May 2024 for the purpose of making final orders.