



THE HIGH COURT

[2024] IEHC 469

[Record No. 2019/7373P]

BETWEEN

CAROLINE TELTSCH

PLAINTIFF

AND

JAMES BUCKLEY AND PAULA BUCKLEY

DEFENDANTS

EX TEMPORE JUDGMENT of Mr Justice Kennedy delivered on 25th day of July 2024.

1. These proceedings arise from long running dealings between the parties in the context of the First Defendant's proposed establishment of an equestrian business. The Plaintiff engaged in numerous financial transactions with the Defendants over the years (and the First Defendant in particular), as a result of which she claims to be the beneficial owner of various assets - including real estate and also including a horse (a showjumper) - which she paid for and beneficially owns but which are held in the First Defendant's name. She also claims that the Defendants also owe substantial sums to her in respect of monies advanced over the years.

2. The Plaintiff issued these proceedings on 23 September 2019. Her Statement of Claim was delivered on 28 July 2021, and, after various orders and applications, the Defendants delivered their defence on 30 March 2022. The Plaintiff was required to bring further applications to compel the Defendants to furnish particulars of their defence and discovery. Eventually, on 20 July 2023, the Deputy Master struck out both Defendants' defence for failing to comply with an order for discovery dated 24 October 2022. The Plaintiff served notice of trial on 10 April 2024 and certified readiness on 18 April 2024. The Defendants' solicitors came off record a few days before the hearing and the Defendants did not appear and were not represented at the hearing which took place before me on Tuesday 23 July 2024.

3. There are five matters for me to determine: (a) the Plaintiff's claim to beneficial ownership of certain real estate; (b) her claims to be entitled to judgment for various sums; (c) her claim to beneficial ownership of a racehorse, BMH Bigtime (also known as Louie); (d) the Defendants' counterclaim; and (e) costs. I have heard testimony from the solicitor formerly representing the Defendants (in relation to the property transactions in issue in these proceedings) and from the Plaintiff herself. I will summarise their evidence as appropriate when I deal with each of the specific issues as set out below. Before doing so, I should note that, while it is deeply regrettable that the Plaintiff engaged in major commercial transactions without taking professional advice to protect her legal and commercial interests and to formally document the arrangements, responsibility for the issues giving rise to these proceedings rests entirely with the Defendants. The First Defendant in particular has abused the trust and confidence which the Plaintiff invested in him, using her property for his own benefit and without regard to her interests.

Jessbrook

6. As appears from paragraphs 15 to 17 of the Statement of Claim, in 2013, the First Defendant persuaded the Plaintiff to purchase Jessbrook Stables, Enfield, in the county of Kildare, now known as the Emerald Equestrian Centre, and neighbouring lands (“the Enfield Properties”), which were originally comprised in folios 26282F, 4003F, 23407F, 27201F, 12391, 25800F, and, since 2019, 71368F of the Register Co. Kildare. The idea was that she was to rent it to him as a base for an equestrian business, which he intended to develop.

7. Although the properties were registered in the First Defendant’s name, this was solely due to acute security sensitivities, because they had been purchased from the Criminal Assets Bureau. The Plaintiff testified that she was the beneficial owner of the Enfield Properties, having paid the entire purchase price. The solicitor who acted on the conveyancing aspects of the transaction (on the First Defendant’s instructions) testified under subpoena and confirmed that the Plaintiff had indeed paid the purchase price for the Enfield Properties.

8. I am satisfied that the Plaintiff became the beneficial owner of the Enfield Properties on their acquisition from the Criminal Assets Bureau and that the First Defendant has, at all times, held the Enfield Properties as a trustee on her behalf. The First Defendant subsequently disposed of two of those properties (folios KE12391 and KE25800F) without the Plaintiff’s knowledge and consent, and without accounting to her for the proceeds of those transactions. He has transferred the main property (comprising folios KE71368F and KE26282F) into the Plaintiff’s name, but he purported to this on the basis that it was by way of satisfaction of his debts due to her. I am satisfied that she was already the beneficial owner of the property and that she was entitled to demand the transfer of title in any event. Accordingly, I do not regard that transfer as constituting satisfaction of amounts otherwise due to the Plaintiff.

9. Three folios, 4003F, 23407F and 27201F of the Register County Kildare, remain in the First Defendant’s name. However, I am satisfied that, having fully funded the acquisition, the

Plaintiff is the beneficial owner and that she is entitled to an order directing Tailte Éireann (formerly the Property Registration Authority) to register her forthwith as full owner, with title absolute of the property comprised in those folios.

Monies due to the Plaintiff

10. The Plaintiff testified as to numerous transactions by which she had advanced very significant sums to the First Defendant (or, in more recent years, to both Defendants), which she regarded as loans repayable on demand. Some were intended to allow him to get his business off the ground, others to enable him to indulge his private interests (such as the purchase of sports cars), others were to assist him with legal and tax issues. However, all were loans and intended to be repaid. The transactions are particularised in the Statement of Claim. Counsel for the plaintiff, Mr McBride, very fairly and appropriately drew the Court's attention to the fact that 13 transactions (which were listed in paragraphs 18 & 19 of the Statement of Claim) related to capital expenditure on the Enfield Properties and that, if the Court accepted (as I have) that the Plaintiff was the beneficial owner of the Enfield Properties, then it followed that she could not claim the cost of such capital expenditure from the First Defendant. Accordingly, those items were not pursued.

12. There was also some evidential uncertainty as to the basis of the payments referred to in paragraphs 32-34 and 36-38 of the Statement of Claim, and the Plaintiff accordingly indicated that she would not seek to recover those sums. However, the Plaintiff confirmed the circumstances surrounding the vast majority of the individual transactions detailed in the Statement of Claim and, subject to some very minor adjustments, she satisfied me that the monies had been advanced by way of loans to the First Defendant and that:

- a) she is entitled to demand repayment from the First Defendant alone of the aggregate sums of €355,765.00 and Stg£82,655.00; **and**

b) **in addition to** the foregoing, she is entitled to demand repayment from the First and Second Defendants jointly of the aggregate sums of €264,116.15 and Stg£95,437.00.

Louie

13. The Plaintiff's evidence confirmed that, although the First Defendant is registered as the sole owner of a showjumper, BMH Big Time, otherwise known as Louie, she purchased a 50% share in Louie from the First Defendant in 2013. However, the Plaintiff has paid all expenses associated with Louie since then, but the First Defendant has recently removed him from the stables where they had agreed that he should be located, and the Plaintiff is concerned for his well-being. On the basis of the evidence in relation to the care of the horse to date (and the payment for such care), I am satisfied that Louie should be returned to the original stables and that the Plaintiff should be responsible for his care and management.

14. The Plaintiff submitted that the First Defendant had relinquished his entitlement to an interest in the animal by failing to pay his share of the costs associated with his upkeep and by failing to show any interest in his welfare prior to his removal of the horse. While such sentiments are understandable, I am not satisfied that his ownership interests can simply be regarded as forfeit in the absence of an express contractual provision to that effect.

15. I have included the First Defendant's 50% share of the expenses associated with Louie in the damages figure which I am awarding against him. The Plaintiff is entitled to be registered as a 50% owner, and I propose to make an order to that effect, but also (and with a view to the welfare of the showjumper as well as rights of the parties) to direct that the Plaintiff should have responsibility for his care and management.

16. If the First Defendant is agreeable to relinquishing his remaining 50% interest in Louie in return for a reduction in the amount due to the Plaintiff, then the value of his interest will

serve to reduce his debt to the Plaintiff. If not, then the Plaintiff can take enforcement steps in respect of his residual interest, if necessary. The Plaintiff guessed that the value of the horse was possibly in the region of €20,000 or less. However, in the extraordinary circumstances of this case, if the First Defendant prefers to retain his 50% interest, I do not consider that it is appropriate that he should have access to Louie or any role in his care or management until he has discharged his substantial debts due to the Plaintiff pursuant to this judgment and, even then, any such access would necessarily be contingent on his promptly paying his 50% share of all expenses associated with the horse in future.

Counterclaim

17. Although the defence was struck out by reason of the Defendants' persistent failure to furnish discovery as directed by the Court, the Defendants had also served a counterclaim alleging that the Defendants had provided valuable consideration to the Plaintiff, particularly by way of care for her horses, and it appeared that they would also have argued that the claim against them should be reduced to reflect the value of any such services or other benefits received by the Plaintiff. Counsel for the Plaintiff submitted that his client had not claimed for all expenditure incurred by her, and that she had excluded expenditure from her claim where she had received such benefits. The Plaintiff's decision not to pursue paragraphs 18 & 19 of the Statement of Claim was consistent with that approach.

18. In circumstances in which the defence had been struck out and the proceedings (which include the counterclaim) were duly listed for hearing (at a stage at which the Defendants were represented), the Defendants did not appear and were not represented at the hearing either to pursue the counterclaim for the purposes of the assessment of damages. Counsel applied, for the avoidance of doubt, for an order dismissing the counterclaim on the basis of the Defendants'

nonappearance at the hearing to pursue that counterclaim. I consider that such an order is appropriate in the circumstances.

Costs

20. The Plaintiff has been substantially successful in the proceedings. Accordingly, she is presumptively entitled to the costs of the proceedings including the hearing and all reserved costs. I see no basis to depart from the normal rule that costs follow the event.

Final orders

21. I will grant reliefs to the following effect:

- a. A declaration that the First Defendant holds (and, since its acquisition on or about 8 May 2014, has held) the property comprised in folios 4003F, 23407F, and 27201F of the Register Co. Kildare (being the balance of the Enfield Properties) on trust for the Plaintiff (by reason of her having purchased the land for full value), and that he also holds on trust for the Plaintiff the entire proceeds of the sale of the property comprised in folios KE12391 and KE25800F, being the two properties which the First Defendant has disposed of.
- b. An order executing the aforesaid trust.
- c. An order directing Tailte Éireann to register the Plaintiff forthwith as full owner with title absolute of the property comprised in folios 4003F, 23407F and 27201F of the Register Co. Kildare.
- d. An injunction restraining the First Defendant, by himself, or his servants and/or agents from disposing of or otherwise dealing in the property comprised in folios 4003F, 23407F and 27201F of the Register Co. Kildare.

- e. An account of all sales and rents and profits of the First Defendant in respect of the Enfield Properties and, in particular, in respect of the properties comprised in folios 12391 and 25800F of the Register Co. Kildare.
- f. An order for judgment against the First and Second Defendants in respect of debts owed by them jointly to the Plaintiff in the sums of €264,116.15 and Stg£95,437.00 with interest thereon.
- g. **In addition to** the foregoing order in respect of monies owed by the First and Second Defendants jointly, an order for judgment against the First Defendant alone in respect of debt owed by him to the Plaintiff in the sums of €355,765.00 and Stg£82,655.00 with interest thereon.
- h. A declaration that the Plaintiff is a 50% owner of BMH Big Time (Louie).
- i. A mandatory order commanding the First Defendant to return BMH Big Time to the Plaintiff's care and custody forthwith.
- j. All necessary and consequential accounts and enquiries.
- k. The Defendants' counterclaim is hereby dismissed.
- l. Liberty to all parties to apply, including, without limitation, for the purposes of the enforcement of this order.