

# Philipp (Respondent) v Barclays Bank UK PLC (Appellant)

Case ID: 2022/0075

## Case summary

### Issue

(1) Does the Quincecare duty have any application in a case where the relevant payment instruction was not issued to the bank by an agent of the bank's customer?

(2) If not, should either (i) the Quincecare duty be extended so as to include the obligations contended for by Mrs Philipp in relation to authorised push payment fraud, or (ii) the law recognise or impose such obligations on a paying bank as incidents of its duty to exercise reasonable skill and care in and about executing an instruction?

(3) Should the Court determine issues 1 and/or 2 above on a summary judgment and/or strike-out application?

### Facts

Mrs Philipp, the Respondent, was a customer of Barclays Bank. She and her husband, Dr Philipp, fell victim to an authorised push payment fraud which was perpetrated by a third-party fraudster posing as an operative working for the Financial Conduct Authority in conjunction with the National Crime Agency. As a result of the fraud, Mrs Philipp was deceived into transferring £700,000 from her Barclays current account to two bank accounts in the UAE. Attempts to recall the funds that had been transferred were unsuccessful. Mrs Philipp sued Barclays claiming that Barclays owed her a duty to observe reasonable care and skill in and about executing her instructions, and that this duty required Barclays to refrain from executing her payment instructions if and for so long as it had reasonable grounds for believing that the instructions were an attempt to misappropriate funds from Mrs Philipp. Mrs Philipp alleges that Barclays acted in breach of the duty (said to be derived from the decision of Steyn J in *Barclays Bank plc v Quincecare Ltd* [1992] 4 All ER 363, which recognised what has come to be known as 'the Quincecare duty'): (i) by making the payments from her account, and (ii) in not taking adequate steps to recover the payments once the fraud had been discovered. Barclays applied to strike out Mrs Philipp's case and/or sought summary dismissal, for which application was granted. Mrs Philipp appealed to the Court of Appeal, who unanimously allowed her appeal. Barclays now appeals to the UKSC.

### Judgment appealed

[\[2022\] EWCA 318](#)

### Parties

#### Appellant(s)

Barclays Bank UK PLC

#### Respondent(s)

Fiona Philipp

### Appeal

**Justices**

Lord Reed, Lord Hodge, Lord Hamblen, Lord Sales, Lord Leggatt

**Hearing start date**

1 February 2023

**Hearing finish date**

2 February 2023

**Watch hearing**

1 February 2023 [Morning session](#) [Afternoon session](#)

2 February 2023 [Morning session](#) [Afternoon session](#)