Neutral Citation Number: [2024] EWHC 886 (Admin)

Case No: AC-2022-MAN-000396 (formerly CO/367/2022)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Manchester Civil Justice Centre,
1 Bridge Street West, Manchester M60 9DJ

Date: 19.04.2024

Before :

KAREN RIDGE SITTING AS A DEPUTY HIGH COURT JUDGE

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Between :

CATHERINE DEBORAH ALEXANDER	**Claimant**
- and –	
LEGAL OMBUDSMAN	**Defendant**
-and-	
STEVENSON GLASSEY SOLICITORS	**Interested Party**

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Catherine Deborah Alexander appeared as a litigant in person
The Defendant and Interested Party did not appear
Hearing date: 16 February 2024

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APPROVED JUDGMENT

Karen Ridge sitting as a Deputy High Court Judge:

1. This is my judgment on an application by the Claimant for permission to apply for judicial review in relation to a decision made by the Legal Ombudsman (the Ombudsman) and the Defendant in this matter. The Ombudsman's decision was made on 21 June 2022 following an investigation into a complaint against the Claimant's former conveyancing solicitors (the Interested Party).

PROCEDURAL MATTERS AND HISTORY OF THE CLAIM

2. Delay in Filing: The Defendant contends that the claim form was filed on 10 October 2022 and therefore the claim is outside the three-month time limit during which judicial review claims should be brought (Civil Procedure Rules, Rule 54). By Order dated 24 April 2023 His Honour Judge Bird, sitting as a High Court Judge, directed that the application for permission for judicial review should be resubmitted to the court and re-served on the Defendant, together with any application for an extension of time.

3. The Claimant says that an extension of time is not necessary because she was not late in filing her claim. Ms Alexander says that she attended at the Court building on the 20 September 2022 and handed her papers in to the Court for issue. This is supported by documentation which has the Court date stamp of the 20 September 2022 on it. The Court subsequently issued the claim on the 10 October 2022 and the Defendant was served with the papers. Ms Alexander further confirms that she is profoundly deaf and she says that she has struggled with the court processes.

4. Rule 3.1(2)(a) of the Civil Procedure Rules provides the Court with a general power to extend the time for compliance with any rule, even if an application for extension has been made after the time for compliance has expired. In deciding whether to

exercise the Court's discretion to extend time, I have had regard to all the circumstances regarding the issue of the claim. It is clear that the Claimant attended at the Court offices on 20 September 2022 and handed her papers in for issue.

5. It is also evident that the Claimant also had to deal with the difficulties arising out of her hearing impairment. Ms Alexander has provided an adequate explanation of matters in her response to the Order of HHJ Bird. Furthermore, the grant of an extension of time would not cause material hardship to the Defendant or Interested Party. I therefore grant the extension of time requested for issue of the claim up to and including the actual issue date.

6. The Hearing: the hearing was initially listed to take place at 10am on Friday 16 February 2024 and all parties were notified by the Court via email. Due to difficulties in securing the services of a sign language interpreter, the matter was re-listed to take place at 2pm on Friday 16 February 2024. Again, all parties were notified of the change by email to the email addresses on the Court file.

7. The Defendant and Interested Party did not contact the Court to request an adjournment and did not attend the Hearing. Both parties were aware of the proceedings and the Defendant had served a Summary Grounds of Resistance. After making enquiries about notification, I determined that it was in the interests of justice to proceed with the Hearing in the absence of the Defendant and Interested Party. It was proportionate and reasonable having regard to the overriding objective.

THE CLAIM

8. The Claimant, Ms Catherine Alexander, completed a house purchase in 2004 using Mr Nigel Glassey of Stevenson Glassey solicitors as her instructed conveyancing solicitors. Some 18 years later, in February 2022 the Claimant made a complaint to Stevenson Glassey solicitors in connection with their conduct of the transaction.

9. That complaint was investigated by another partner at the practice who responded by letter of 22 February 2022. The response letter sets out the circumstances in which an allowance of £500 had been made to the Claimant against the purchase price of her property in relation to work needed to provide a dropped kerb. The complaint to Stevenson Glassey was not upheld for the reasons set out in the letter of 22 February.

10. The Claimant was unhappy with the response to her complaint and subsequently contacted the Legal Ombudsman. A completed complaint form was submitted to the Ombudsman on 16 March 2022. On 30 May 2022 the Ombudsman wrote to the Claimant giving advance notice to the Claimant that it was minded to dismiss the complaint under the Scheme Rules which the Ombudsman applied. The Claimant was provided with an opportunity to respond and she duly did so, on 31 May 2022 attaching further evidence.

11. On the 21 June 2022 the Ombudsman made a formal decision to dismiss the complaint under the Scheme Rules. There followed some additional correspondence between Ms Alexander and the Ombudsman. The decision was maintained and on 10 August 2022, the Claimant sent a pre-action protocol letter.

THE OMBUDSMAN AND THE SCHEME RULES

12. The Legal Ombudsman Scheme is a statutory scheme created by Part 6 of the Legal Services Act 2007. It is designed to deal with consumer complaints against solicitors

and it is not intended to be formal legal process, rather a process by which an independent person can resolve complaints quickly. An Ombudsman decides what is fair and reasonable and they have a wide and subjective discretion in deciding what is fair in all of the circumstances.

13. The Legal Services Act provides for the creation of Scheme Rules, and it further provides that those Scheme Rules may make provision for the whole or part of any complaint to be dismissed, in specified circumstances, without consideration of its merits.

14. Part of the existing Scheme Rules [at 5.7] provide that an Ombudsman may (but does not have to) dismiss or discontinue all or part of a complaint if, in his/her opinion it does not have any reasonable prospect of success.

15. In terms of this Court's role, judicial review is the procedure by which an individual, company or organisation can challenge the lawfulness of a decision of a body whose powers are governed by public law. The Claimant is asking for permission to bring a claim for judicial review against the Ombudsman. In exercising its powers of review, it is not the job of this Court to review the merits of the original decision taken by the Ombudsman as if the Court were standing in the shoes of Ombudsman and making a decision on the merits of the complaint. Instead the Ombudsman's decision can only be overturned if it was so unreasonable that no reasonable person making the decision and acting reasonably, could have made it.

16. I have had regard to case law in this area. It is notable that these Courts have been slow to interfere with the decisions of Ombudsman and independent adjudicators. In R (Siborurema) v Office of the Independent Adjudicator [2007] EWCA Civ. 1365 the Court held that:

> "The decision whether a complaint is justified involves an exercise of judgment with which the court will be very slow to interfere."

THE CLAIM

17. The complaint to the Ombudsman was brought some 18 years after completion of a house purchase on behalf of Ms Alexander. The agreed sale price was £52,000 which was to be financed with a mortgage of £44,200. The property had a driveway but no dropped kerb which was estimated to cost £500. The seller agreed that an allowance would be made out of the sale price to cover the costs of the dropped kerb. Whilst the purchase priced remained at £52,000, the seller agreed to accept monies in the sum of £51,500 to cover the £500 allowance. The sale price recorded at the Land Registry remained at £52,000.

18. The complaint to the Ombudsman by Ms Alexander contained an allegation that she had been misled by her solicitors, that she had paid £52,000 for the purchase of the house and that she had been led to believe that she would receive the monies for payment of the dropped kerb when she had had the works done and submitted a receipt. Ms Alexander says that there has been no reduction in the sale price and she has not received any monies.

19. The Ombudsman obtained the complaint response letter from Stevenson Glassey solicitors, together with a completion statement recording the monies received and those paid out. I note that whilst the Statement of Facts filed by the Claimant contains the Draft Completion Statement, the response by Stevenson Glassey Solicitors contains the Final (amended) Completion Statement which reflects the position at the

end of the transaction. It is clear that the monies paid to the seller totalled some £51,500 in relation to the purchase price of £52,000.

20. Ms Alexander relied on a letter from the estate agents dated 2 March 2024 in which they confirm that the vendor had agreed a contribution of £500 to the cost of the dropped kerb and 'this would be subject to sight of a receipt from the council'. The Ombudsman considered this letter but also considered the evidence in the form of the Final Completion Statement. The Ombudsman determined that there had been no price reduction but that only £51,500 had been paid by Ms Alexander to the seller because the seller had agreed the £500 allowance.

21. It is not remotely arguable that the procedure adopted by the Ombudsman in investigating the complaint was unfair. The Investigation was thorough and provided each party with several opportunities to put their points. The reasoning in the outcome letter is clear and intelligible and there are full reasons given. It is not arguable that relevant considerations were not taken into account or that the decision arrived at is one which no reasonable decision maker could have come to.

22. The Ombudsman has a broad area of discretion and it is not arguable that the Ombudsman acted outside that discretion when dismissing the complaint. It is not for this Court to act as a court of appeal on the merits of the complaint.

23. Whilst the Claimant alleges that the decision is wrong, this is a disagreement with the decision on the merits. For the reasons provided, it is not the role of this Court to act as an appellate court on the merits of the original decision.

24. The Claimant further alleges that there has been a breach of her Human Rights in terms of Articles 1, 6, 9, 10, 13 and 14. There is no further detail before the Court and

these allegations do not raise any arguable grounds.

25. Whilst the Claimant disagrees with the Ombudsman's decision, the Claim Form and supporting evidence does not raise any arguable error of law or procedure. For these reasons permission is refused.

TOTALLY WITHOUT MERIT

26. The Defendant asks that the application be certified as Totally without Merit pursuant to rule 23.12(a) of the Civil Procedure Rules. I accept that Ms Alexander has not brought the case on a abusive or vexatious basis. However, the papers do not disclose any reasonable cause of action and the claim was bound to fail even with generous interpretation and bearing in mind that Ms Alexander is a litigant in person. I therefore certify that the claim is totally without merit.

27. My decision brings these proceedings to an end in this Court. The Claimant does have a right of appeal to the Court of Appeal which must be made within 7 days of the date of the Order accompanying this judgment. I would urge the Claimant to read this judgment carefully and to consider her position. Further applications to the Court may put her at risk of further costs awards against her if her claim continues to be found unmeritorious.

COSTS

28. For the reasons set out herein, the Claim is not arguable on any of the grounds advanced, and permission is refused on all grounds.

29. The Claimant is ordered to pay the second Defendants costs of preparing the Acknowledgment of Service, summarily assessed in the sum of £2,059.40

30. The above is a final costs order unless within 14 days of the date of the judgment, the Claimant files with the Court and serves on the Defendant a notice of objection setting out the reasons why he should not be required to pay costs (either as required by the costs order, or at all). If the Claimant files and serves notice of objection, the Defendant may, within 14 days of the date it is served, file and serve submissions in response. The Claimant may, within 7 days of the date on which the Defendant's response is served, file and serve submissions in reply. Thereafter, a Judge will decide on the basis of the written representations referred to above, what order for costs, if any, should be made.