Neutral Citation Number: [2023] EWHC 1497 (KB)

Case No: QB-2022-002506
Appeal ref: KA-2022-000218

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/06/2023

Before :

MR JUSTICE JULIAN KNOWLES

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Between :

JEAN LLOYD	**Applicant/ Claimant**
- AND –	
(1) HIS HONOUR JUDGE NORTH **(2) RT HON LORD JUSTICE ARNOLD** **(3) MRS ALISON MACLENNAN** **(4) MR BEN SALMON** **(5) MR J WILSON**	**Respondents/ Defendants**

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The Applicant appeared in person
The Respondents did not appear and were not represented

Hearing date: **7 June 2023**

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Approved Judgment

This judgment was handed down remotely at 10.30am on [date] by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Mr Justice Julian Knowles:

Introduction

1. This is a renewed application for permission to appeal following refusal on the papers by Hill J on 6 December 2022. I held an oral hearing on 7 June 2023 at which the Applicant addressed me in person. She did so clearly and courteously, and I encouraged her to take as much time as she needed to address me (within the allotted time estimate). I am satisfied she had ample time to make all the points she wished to make, and that she made them.

2. The Applicant seeks permission to appeal a decision of Master Gidden dated 6 September 2022 by which he refused the Applicant's application to set aside the order sealed on 8 August 2022. The Master concluded that the claim form and the accompanying documents disclosed no reasonable grounds for bringing the claim, and that the claim was a collateral challenge to proceedings that have previously been determined such that it was an abuse of process of the court or otherwise likely to obstruct the just disposal of the proceedings.

3. The claim was struck out under CPR r 3.4(2)(a) and (b). These rules provide that the court may strike out a statement of case if it appears to the court (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim; or (b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings.

Background

4. This is as follows.

5. The Applicant was formerly the occupier of an almshouse in Wickhambrook, Suffolk. She occupied the property as a licensee. The licensor was the Trustees of the Wickhambrook United Charities. It is not necessary to go too deeply into the facts for the purposes of this application, but taking matters shortly, relations between the Applicant and the Trustees broke down, and on 25 September 2017 the Trustees served a Notice to Determine in respect of a licence to occupy premises as a dwelling, in other words, a notice requiring her to vacate the property. At one stage the Applicant commenced civil proceedings against the various individuals including the wife of a Trustee (as I understand it, for slander), which were struck out.

6. She did not vacate the property, and so in due course the Trustees, acting through the Chairman of the Trustees Mr Salmon (the Fourth Respondent) sought a possession order. The matter was heard in the County Court at Bury St Edmunds in December 2018 before Deputy District Judge Stevens (in some places in the papers his name is spelt Stephens). The claim was entitled *Salmon v Lloyd*, and the claim number was E00NR469. It was the licensor's case that the Applicant was in breach of clause 37 of the Charity Commission deed of 1968 under which the Charity was constituted, which provides that the Trustees can set aside the appointment of an alms person (which the Applicant was) *inter alia* if they disturb the quiet occupation of the alms houses or otherwise behave 'vexatiously or offensively'. They also said that the Applicant had breached condition 13 of the conditions of occupancy which she had signed in 2009

when she took up residence, and which required a reasonable standard of behaviour from residents.

7. After a trial the Deputy District Judge dismissed the claim for possession. I have read his judgment. In summary, he concluded that the Trustees' opinion that the Applicant was in breach of clause 37 of the Deed and the conditions of occupancy had not been arrived at reasonably (at [12], [14] and [17] in particular). He refused Mr Salmon's application for permission to appeal. The three grounds of appeal advanced were: (1) he should not have taken into account the defendant's other proceedings; (2) that he came to the wrong conclusion; (3) he did not consider the pre and post notice of eviction (sic) correspondence.

8. Mr Salmon for the Trustees appealed to a Circuit Judge, as he was entitled to do. He was granted permission to appeal on the papers by His Honour Judge North sitting in the County Court at Norwich on 17 January 2019. An application by the Applicant to set aside that grant of permission was refused on 4 February 2019 by the same judge.

9. The appeal was originally listed for 16 May 2019 but it could not proceed on that day and was re-listed for 30 July 2019. Apparently there was not a transcript of the Deputy District Judge's decision, but only counsel's note of it. A transcript was obtained in due course.

10. On 18 July 2019 the Applicant applied to strike out the appeal because she said Mr Salmon had breached the CPR. The application notice stated that the application should not be considered by His Honour Judge North.

11. In a judgment dated 30 July 2019, again which I have read, His Honour Judge North allowed Mr Salmon's appeal and granted the possession order. He also dismissed the application to strike out the appeal which he had listed to be heard alongside the appeal (at [3]).

12. At [20] the judge concluded that there was 'ample evidence' upon which the Trustees could have based a subjective opinion that the Applicant was behaving vexatiously or offensively. He then recited various extracts from the evidence in support of that conclusion. I need not set these out; it largely consisted of things she had said and written to or about the Trustees. At [24] the judge said the Applicant's conduct seemed to him to fall within the dictionary definitions of vexatious and offensive. He said at [25] that the Trustees had been entitled to take into account the Applicant's pursuit of 'groundless' litigation.

13. The judge concluded at [28]:

> "I am very mindful of the fact that an appeal court has to be careful not simply to substitute its decision for that of the judge at first instance. However, I am persuaded that there was no proper basis on which, with respect to the learned judge, he could interfere with the trustees' decision, which on his own assessment had been reached after proper reflection and, in my judgment, on material which a trustee could reasonably conclude amounted to

> offensive or vexatious behaviour on the part of the respondent [ie, the Applicant before me]. Accordingly, I therefore conclude that Deputy District Judge Stephens' decision must be set aside and a possession order made."

14. The Applicant then sought permission to appeal to the Court of Appeal. This being a second appeal, only that court had the power to grant permission. The test for the grant of permission in such a case is a rigorous one. It is in CPR r 52.7:

> "(1) Permission is required from the Court of Appeal for any appeal to that court from a decision of the County Court, the family court or the High Court which was itself made on appeal, or a decision of the Upper Tribunal which was made on appeal from a decision of the First-tier Tribunal on a point of law where the Upper Tribunal has refused permission to appeal to the Court of Appeal.
>
> (2) The Court of Appeal will not give permission unless it considers that—
>
> (a) the appeal would—
>
> (i) have a real prospect of success; and
>
> (ii) raise an important point of principle or practice; or
>
> (b) there is some other compelling reason for the Court of Appeal to hear it."

15. The application came before Arnold LJ, who is the Second Respondent in the matter before me. In a decision dated 25 November 2019 made on the papers, he refused permission for the following reasons:

> "I have read the judgment of DDJ Stevens, the judgment of HHJ North, the Appellant's grounds of appeal, the Appellant's skeleton arguments dated 9 August 2019, 5 November 2019 and 18 November 2019 and the Appellant's witness statement dated 9 August 2019 (including the attached letter from Ruth Seal). I sympathise with the Appellant as to the predicament in which she finds herself, but the tests for a second appeal are not met.
>
> None of the Appellant's grounds of appeal stands a real prospect of success. The contention that HHJ North ought not to have granted permission to appeal is hopeless: he was clearly right to do so. The key questions are: (1) whether DDJ Stevens applied the wrong test given that clause 37(a) of the scheme contains the crucial words 'In their opinion' and (2) If so, whether the Trustees had a sufficient basis for forming the opinion that they did. HHJ North concluded for the reasons he gave that the answer to both

questions was yes. There is no prospect of this Court reaching a different conclusion.

Even if the Appellant did have a real prospect of success, the appeal would not raise an important point of principle or practice. It simply involves a difference of view between HHJ North and DDJ Stevens as to whether the test laid down by clause 37(a) was satisfied on the specific facts of this case.

Nor is there some other compelling reason to hear the appeal. I appreciate the Appellant feels strongly that she is the victim of an injustice, but I do not accept that she is."

The present claim

16. The Applicant launched these proceedings in 2022 seeking compensation for her eviction. She told me she had lost everything as a consequence of it. The claim was struck out by Master Gidden in the terms I explained earlier.

17. The Applicant's Grounds of Appeal dated 8 October 2022 state at [1]-[3] and [7] (*sic*):

> "1. To deal with the unlawful and irrational decisions of HHJ North (at appeal hearing 30/7/19 and subsequently, Rt Hon Lord Richard Arnold (in refusing my application to go to Court of Appeal.) It is essential claim QB-2022-002506 is issued now. The 6/9/2022 order of Master Gidden must be set aside.
>
> 2. Extreme injustice resulted from these decisions which overruled the relevant law and Deed of Trust when evicting me at age 78 from the almshouse where I had lived for 14 years. That almshouse was [in] Wickhambrook but in the judgment the address given by HHJ North is […] which is a large detached property not subject to Deed of Trust. He changed the address in his order.
>
> "3. HHJ North evicted me because I had brought a justified claim which is unlawful eviction. DDJ Stevens correctly dealt with this issue on 14/12/18 stating that Trustees could <u>not</u> fetter me from bringing a claim and it was <u>not</u> relevant to the question he had to answer. HHJ North incorrectly revisited this issue when he should not have done so. He got <u>all</u> relevant facts wrong particularly that the claim was against Trustees when it was not. <u>I was not allowed to make submissions and did not get a fair trial.</u>
>
> …
>
> 7. Rt Hon Lord Justice Arnold failed to realise the reason for eviction was unlawful and that the appeal should <u>not</u> have been permitted. There was abuse of all CPR and relevant rulings. He

> failed to consider the evidence and wrongly refused my application to Court of Appeal where it would have succeeded."

18. Hill J's reasons for refusing the Applicant permission to appeal were as follows:

> "The Appellant seeks permission to appeal a decision of Master Gidden by which he refused her application to set aside the order sealed on 8 August 2022.
>
> The Master concluded that the claim form and the accompanying documents disclosed no reasonable grounds for bringing the claim and that the claim was a collateral challenge to proceedings that have previously been determined such that it was an abuse of process of the court or otherwise likely to obstruct the just disposal of the proceedings.
>
> The powers exercised by the Master were those under the Civil Procedure Rules 3.4(2)(a) and (b). These provide that the court may strike out a statement of case if it appears to the court (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim; or (b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings.
>
> The Master was entitled to conclude that both of these conditions were met by the claim form the Appellant sought to issue, given that it was seeking to relitigate a claim in which
>
> (i) the First Defendant ordered her eviction on 30 July 2019; and (ii) the Second Defendant refused her application for permission to appeal the 30 July 2019 order.
>
> The grounds of appeal and accompanying documents do not identify any error in the Master's approach, nor can I discern any.
>
> Permission to appeal the Master's order is therefore refused."

The hearing before me

19. As foreshadowed in her Grounds of Appeal, before me the Applicant advanced strong criticisms of His Honour Judge North's judgment, and the decision of Arnold LJ. Among the points she made were the following.

20. She said she had suffered extreme injustice. The CPR had been abused. She had not been allowed to state her case at the appeal, which should never have happened. His Honour Judge North had got his facts wrong. Arnold LJ had been negligent and he, too, had abused the CPR. He was just acting in favour of another judge. A remedy must be found for the injustice she has suffered. She said, the 'Judges got everything wrong and ignored the law and did not get a single thing right.'

Discussion

21. Like Arnold LJ, I have sympathy for the Applicant's predicament. However, the present claim is plainly and obviously an abuse of process; it was therefore rightly struck out by the Master; and Hill J was right for the reasons she gave to refuse the application for permission to appeal. I add only the following.

22. It is in general not open to a party to re-litigate all over again that which has already been decided by a court of competent jurisdiction against them. If that were not so litigation would never end. If a losing party were permitted to start new proceedings having lost, the matter would go on for ever.

23. Take the position of Mr Salmon, who is a Defendant/Respondent to these proceedings. He has already won. Why should he have to defend himself all over again on those matters? It would plainly be an abuse of process to allow the Applicant the opportunity to make him do so.

24. It was absolutely clear from the Applicant's submissions to me that, at bottom, she thinks Deputy District Judge Stephens was right and the other two judges were wrong and that she wants to re-litigate all over again the rightness of the possession order under the guise of a claim for compensation.

25. There is no doubting the sincerity of her beliefs. But she lost on appeal to the County Court, and Arnold LJ refused permission to appeal. I do not have the power to say whether those decisions were right or wrong. They were decisions given by judges which stand, and those decisions concluded – and conclude - the matter against the Applicant. The Applicant is not permitted to begin new proceedings to argue the same matters all over again before the High Court on which she has already lost.

26. Further and in any event, the Grounds of Appeal are wrong in at least one obvious respect. For example, the sentence in [3], 'HHJ North evicted me because I had brought a justified claim which is unlawful eviction' is simply not correct. As I have set out, he upheld the Trustees decision on the basis there was a proper evidential basis – apart from the civil claim - for the conclusion that the Applicant had behaved in an offensive or vexatious manner. This basis included things the Applicant had written or said which the judge recited at length.

27. I therefore refuse this renewed application for permission to appeal.

28. For the avoidance of doubt, I say nothing about the question of judicial immunity given it did not form part of Hill J's reasons and the Applicant is unrepresented.