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Case summary

Case ID

UKSC/2023/0043

Parties

Appellant(s)

La Micro Group Inc

Respondent(s)

(1) La Micro Group (UK) Ltd, (2) David Bell

Arkakiy Lyampert

Roman Frenkel

Issue

Does an agreement to transfer the beneficial interest in shares in a private company to the legal owner of those shares need to be in writing and signed by each of those making the disposal?

Facts

This appeal concerns the beneficial ownership of LA Micro Group (UK) Limited ("LA UK"), a UK company supplying computer hardware. LA UK was set up in 2004 as a joint venture between Mr David Bell and a Californian company, LA Micro Group, Inc ("LA Inc"), which is itself owned equally by Mr Arkadiy Lyampert and Mr Roman Frenkel. LA Inc was a trading partner of LA UK. LA UK has two issued shares, one legally owned by Mr Bell and the other by Mr Lyampert. Mr Bell and Mr Lyampert are also its directors. Following a previous claim brought by Mr Frenkel the High Court held (and it is accepted in these proceedings) that pursuant to the agreements made in 2004, each share in LA UK was held on express trust 49% for Mr Bell and 51% for LA Inc, and that LA UK's profits would be split equally between Mr Bell and LA Inc. In 2010 Mr Lyampert and Mr Frenkel fell out and took steps to dissolve LA Inc (and following litigation in California it is now under the control of a US office holder). At that point Mr Frenkel told Mr Bell that LA UK was Mr Bell's business and he did not want anything to do with it. Mr Lyampert then reached an agreement with Mr Bell on new trading arrangements. This included an agreement that the profits of LA UK would be split equally between Mr Bell and Mr Lyampert (rather than LA Inc). Mr Lyampert also agreed to take on personally LA Inc's debt to LA UK. Mr Frenkel subsequently claimed he was owed a share of the profits of LA UK. Mr Bell and LA UK then brought the current proceedings seeking a declaration that, following the 2010 agreement, the shares in LA UK had come to be beneficially owned equally by Mr Bell and Mr Lyampert. LA Inc resisted this arguing that it remains the 51% beneficial owner of each of the shares. The High Court originally upheld LA UK and Mr Bell's claim on the basis that Mr Frenkel had disclaimed LA Inc's interest in LA UK in 2010. However, this was overturned by the Court of Appeal, which remitted the claim to the High Court to consider a number of alternative grounds for the claim. Following the remission the High Court found that it was an implied term of the 2010 agreement that each of Mr Bell and Mr Lyampert would henceforth own his share beneficially as well as legally, such that the beneficial ownership of LA UK would be split 50/50 between the two of them. However, this was ineffective because it

involved the disposition of LA Inc's equitable interest but was not in writing and signed by LA Inc, as required under Section 53(1)(c) of the Law of Property Act 1925. The High Court also rejected Mr Bell and LA UK's arguments that LA Inc could not assert its beneficial interest on the basis of delay (laches). However, it upheld the claim on the basis of proprietary estoppel, holding that it would be unconscionable for LA Inc to assert a beneficial ownership in LA UK. The Court of Appeal allowed Mr Frenkel and LA Inc's appeal against the finding of proprietary estoppel (there is no further appeal against this decision). However, it allowed Mr Bell and LA UK's cross-appeal, holding that the claim should succeed on the basis that LA Inc had contractually surrendered its beneficial interest. This was effective notwithstanding the lack of signed writing because it was effective by way of constructive trust (and so fell within the exception in Section 53(2) LPA 1925). LA and Mr Frenkel's cross-cross-appeal against the finding of the implied term was dismissed (and is not pursued further). LA Inc and Mr Frenkel now seek permission to appeal to the Supreme Court on the basis that the claim based on contractual surrender should not succeed because it was not made in writing and signed by them as required by Section 53 of the LPA 1925.

Date of issue

28 March 2023

Judgment appealed [\[2023\] EWCA Civ 214](#)

HTML

Linked cases (The Supreme Court of the United Kingdom web site)

[UKSC/2023/0044 Frenkel \(Appellant\) v La Micro Group \(UK\) Ltd and others \(Respondents\)](#)

Legal issue