

**APPROVED**

**THE HIGH COURT**

[2024] IEHC 104

[Record No. 2023/1876P]

**BETWEEN**

**EUGENIE HOUSTON**

**PLAINTIFF**

**AND**

**WENDY DOYLE PRACTISING UNDER THE STYLE AND TITLE OF WENDY**

**DOYLE SOLICITORS**

**DEFENDANT**

**JUDGMENT of Mr Justice Liam Kennedy delivered on the 6<sup>th</sup> day of March, 2024.**

**I. Introduction**

1. The Defendant seeks orders striking out these proceedings on the basis that they: (a) are an abuse of process; (b) disclose no *bona fide* cause of action; and/or (c) are frivolous and vexatious and bound to fail. The hearing took two days, most of which was dealt with preliminary issues and applications. This judgment concerns the substantive application.

2. The proceedings relate to a long running dispute involving multiple legal actions. Other relevant chapters in the saga are explained in the appendix which forms part of this judgment. In these proceedings, the Plaintiff challenges steps taken by the Defendant to register judgment mortgages against the Plaintiff's home. The judgment mortgages were grounded on costs awards in the Defendant's favour following the failure of High Court defamation and unrelated

District Court claims launched by the Plaintiff in 2014 and 2015. The Defendant obtained well-charging orders and a subsequent order for vacant possession on foot of those four costs orders in her favour. The Defendant also seeks an order vacating a *lis pendens* which the Plaintiff has lodged against her own property.

## **II. The Background to the Application**

### **The history of the litigation**

3. Many details of the earlier proceedings in the affidavits and the submissions have limited relevance to the current application and therefore need not be canvassed in this judgment. However, the appendix to this decision, which forms part of this judgment, defines and identifies the various proceedings and sets out the history of the litigation in greater detail.

4. As is explained in greater detail in the Appendix:

- a. the costs orders which underlie the impugned judgment mortgages were made by the relevant courts between 2015 and 2017 and were not appealed;
- b. the High Court costs were adjudicated by the Taxing Master and the outcome of that process was not appealed;
- c. the Plaintiff has known of the judgment mortgages since 2017; she unsuccessfully challenged their registration at that time;
- d. the Plaintiff unsuccessfully defended well-charging proceedings and an application for possession, both grounded on the same judgment mortgages;
- e. having consistently failed in the High Court to prevent the Defendant's attempts to recoup the costs awarded to her so many years ago, the Plaintiff has consistently appealed to the Court of Appeal (unsuccessfully on each occasion save in respect of one, different, issue);

f. the Plaintiff has also repeatedly been refused leave to appeal related issues to the Supreme Court; and

g. the Plaintiff has also previously issued proceedings ventilating essentially the same issues, which were struck out by the High Court as a collateral attack on previous court orders, a decision affirmed by the Court of Appeal, with the Supreme Court refusing leave to appeal once again.

***The Plenary Summons dated 26 April 2023***

5. It appears that the Plaintiff's essential complaint about the registration of the judgment mortgages (which, she says, affects all subsequent enforcement proceedings) was that the applications were not "*in compliance with the strict provisions of*" the Land Registration Rules 2012 (S.I. No. 483/2012) ("the LRR") because the Defendant "*failed to have three of her application affidavits sworn by a relevant court official*".

6. In short, the Plenary Summons alleges that the Defendant: (a) wrongfully procured registration of three judgment mortgages in 2017 and further judgment mortgages against the same property in 2019; (b) fraudulently continued to rely on the 2017 judgment mortgages (including in litigation), despite being on notice since 2019 of their alleged noncompliance; and (c) failed to apply to correct the register or otherwise remedy the situation.

7. Reliefs sought include orders pursuant to section 31 of the Registration of Title Act 1964, rectifying the folio and injunctive and other equitable relief. Curiously, in view of the case advanced by the Plaintiff (and presumably in an attempt to avoid a *res gestae* argument), the reliefs sought do not include orders setting aside the judgments and orders in related well-charging proceedings ("the Well-Charging Proceedings") and other related litigation.

***The absence of a replying affidavit from the Plaintiff***

8. Although this matter was before the Court on ten occasions prior to the hearing before me, and the Plaintiff was repeatedly afforded the opportunity to file an affidavit in response to the Defendant's application, and even granted an adjournment of the July 2023 hearing, she failed to file such an affidavit. At the hearing of this application, she sought a further adjournment to allow her to do so and also offered to file such an affidavit during the actual hearing, offers which I declined, since the proceedings had been underway for such a long period and the Plaintiff was offered ample opportunity to file such an affidavit. I also declined her requests to give *viva voce* evidence. As an experienced barrister, the Plaintiff is well aware of the procedures governing civil interlocutory applications and was afforded ample opportunity to submit any evidence on which she sought to rely. In any event, the papers before the Court included an earlier affidavit sworn by the Plaintiff which outlined the factual basis for her claims in these proceedings.

9. I should also note that, while the Plaintiff has claimed the Defendant repeatedly resisted the Plaintiff's attempt to cross-examine her on the proceedings and thereby "*deliberately thwarted the exposure of her fraud*", this is not a fair or reasonable characterisation of the Defendant's position in these or the earlier proceedings. It is normal for interlocutory matters to be dealt with on affidavit with cross-examination permitted only where necessary. There was no basis for the Plaintiff's attempt to cross examine in respect of the current application. It seems from the previous judgments that her previous applications in the earlier proceedings were equally misconceived. She was not permitted to cross-examine because no issue arose from the affidavits which required cross-examination.

***The Plaintiff's interlocutory application in these proceedings***

10. Having issued these proceedings on 26 April 2023, the Plaintiff sought to restrain the Defendant from taking any further enforcement step on foot of the judgment orders and subsequent Court orders (including an order for possession) without leave of the Court. On 17 May 2023, Egan J. declined a wide-ranging application for such interim relief, reserving the costs of the application. The Plaintiff then pursued an interlocutory application for the same relief pending trial. On 16 June 2023, Stack J. rejected the Plaintiff's application on the grounds that the Plaintiff had not raised a fair question to be tried, awarding costs to the Defendant. Stack J. also gave directions for the hearing of the current motion, directing the Plaintiff to file any replying affidavit within two weeks. No such affidavit was ever filed. The Plaintiff appealed against the order of Stack J., but only insofar as it directed her to pay the Defendant's costs.

**III. The Motion to Dismiss**

***The adjourned hearing of July 2023***

11. This application was listed for hearing on 26 July 2023, but the Plaintiff successfully sought an adjournment. Roberts J. gave directions, allowing the Plaintiff more time to file a replying affidavit in advance of the new hearing date, 11 October 2023.

***The basis for the Defendant's application***

12. The Defendant's affidavit and its exhibits confirmed the history of the related litigation (which I have summarised in the attached appendix). Essentially, she argued that these proceedings were frivolous, vexatious, an abuse of process and bound to fail, because they were an attempt to resurrect issues already conclusively determined in earlier proceedings and constituted an impermissible collateral attack on the outcomes of the previous proceedings.

There is also a defence of laches since the Plaintiff had learnt of and unsuccessfully objected to the judgment mortgages in 2017.

13. The Defendant noted that the reliefs sought in the Plaintiff's Statement of Claim in earlier proceedings issued by her in 2017 (which were themselves struck out as being an abuse of process, as disclosing no stateable cause of action and as being frivolous and vexatious and bound to fail) were based on her contention that the court orders underpinning the four judgment mortgages were "void", a claim she resurrected in these proceedings. The High Court and Court of Appeal have repeatedly rejected the Plaintiff's attempts to relitigate these issues.

***The Plaintiff's justification for the current proceedings***

14. The Plaintiff primarily opposed the dismissal application on the basis of her claim that three of the first four judgment mortgages registered against her property (which formed the basis for subsequent well-charging proceedings and an order for vacant possession) were void because the applications for those judgment mortgages were not certified as required by the provisions of the LRR. No serious issue was raised with the first judgment mortgage, which was based on the District Court order. Section 110(1) of the LRR provides that an application for registration of a judgment mortgage:

*"shall have endorsed a certificate that the judgment was obtained, signed by a proper officer of the relevant court"*.

The Plaintiff alleged that the three judgment mortgages did not comply with s. 110. She argued that the Defendant had fraudulently used the judgment mortgages to ground well-charging proceedings without disclosing the issue. The Plaintiff submitted that strict proofs were required for well-charging proceedings but that the grounding affidavit had exhibited uncertified judgment mortgage affidavits. The result, she argued, was that the judgment

mortgages should not have been registered, rendering them (and all subsequent proceedings and orders) void.

**15.** The Defendant maintains that the judgment mortgage affidavits were duly certified prior to the application for registration. She has exhibited judgment mortgage affidavits showing the contemporaneous certification in accordance with the LRR requirements, along with the contemporaneous letters of confirmation from the Property Registration Authority (“the PRA”) for each judgment mortgage. The premise of the claim that the judgment mortgages were fraudulently procured appears to be based on (uncertified) documents previously exhibited in the Well-Charging Proceedings in an affidavit dated 5 September 2017. The crucial point is that the certification had been duly completed at the time of the registration of the judgment mortgages. Exhibits “WD10” and “EH2” confirm the position with regard to the four judgment mortgage affidavits as follows:

	<b>21 April 2017 District Court Order</b>	<b>27 February &amp; 12 October 2015 and 14 February 2017 High Court Orders</b>
<b>Judgment Mortgage Affidavit</b>	24 May 2017	21 July 2017
<b>Certification Date</b>	7 June 2017	25 July 2017
<b>PRA Notification of Registration</b>	27 June 2017	10 August 2017

***The lis pendens application***

**16.** A High Court Search revealed that the Plaintiff had registered a *lis pendens* on 22 May 2023, after Egan J. refused interim relief on 17 May 2023. The Defendant argued that the evident intention of lodging the *lis pendens* was to frustrate the High Court’s well-charging orders and orders for possession, and to mount a further collateral attack on those orders.

#### **IV. The Law**

##### **Jurisdiction to set aside final determination of an issue in earlier proceedings**

17. Courts have an inherent jurisdiction to set aside final orders granted in proceedings which were obtained by fraud. In *Tassan Din v Banco Ambrossiano SPA* [1991] 1 IR 569, Murphy J. accepted that a Supreme Court order could be set aside for fraud/wilful concealment of material evidence, citing Lord Simon’s observation in the House of Lords decision in the *Amphill Peerage Case* [1977] AC 547:

*“The impugner of a judgment as obtained by fraud must adduce evidence of facts discovered since the judgment which show a reasonable probability (which I take to mean a prima facie case) of such fraud as would invalidate the judgment...”*

18. Murphy J. also cited the observations of Lord Wilberforce in the same case:

*“There must be conscious and deliberate dishonesty, and the declaration must be obtained by it.”.*

19. However, the jurisdiction to revisit the final decision of another court will not be exercised lightly. As Fennelly J. observed in *Kenny v Trinity College Dublin* [2008] IESC 18 (“*Kenny*”):

*“In the absence of fraud, it would be vexatious and an abuse of the process of the Court to litigate any matter which was already concluded by a final and binding Order of the Court. Fraud is the only basis on which such an Order could be set aside. (para. 36)*

...

*[I]n order to ground an action to set aside a judgment, the plaintiff must allege fraud in the true sense, that is deliberate and purposeful dishonesty, knowing and intentional deceit of the court... the fraud alleged must be such as to affect the impugned decision in a fundamental way. It will not suffice to allege that the new situation revealed by the uncovering of the fraud might have affected the judgment. It will not be enough to show, for example, that a witness lied unless it is shown that the true version of his evidence would probably have affected the outcome... The test would be whether new evidence “changes the whole aspect of the case” ... in an action to set aside a judgment based on an allegation that the court was deliberately deceived into making the impugned decision*



*no less stringent test should be required. There must be something fundamental, something that goes to the root of the case.”* (paras. 54 and 55).

### ***Jurisdiction to strike out proceedings***

**20.** The principles pertaining to an application to strike out proceedings under the Rules of the Superior Courts or pursuant to the Court’s inherent jurisdiction are well established and were not disputed by the parties. Clarke J. (as he then was) compared the dual jurisdictions in *Lopes v Minister for Justice* [2014] 2 IR 301, at p. 309:

*“An application under the RSC is designed to deal with a case where, as pleaded, and assuming that the facts, however unlikely that they might appear, are as asserted, the case nonetheless is vexatious. The reason why, as Costello J. pointed out at p. 308 of his judgment in Barry v. Buckley [1981] IR 306, an inherent jurisdiction exists side by side with that which arises under the RSC is to prevent an abuse of process which would arise if proceedings are brought which are bound to fail even though facts are asserted which, if true, might give rise to a cause of action. If, even on the basis of the facts as pleaded, the case is bound to fail, then it must be vexatious and should be dismissed under the RSC. If, however, it can be established that there is no credible basis for suggesting that the facts are as asserted and that, thus, the proceedings are bound to fail on the merits, then the inherent jurisdiction of the court to prevent abuse can be invoked.”*

**21.** In *Fox v. McDonald* [2017] IECA 189 (“*Fox*”), Irvine J. (as she then was) stated (at para. 20) that:

*“Proceedings which are regularly struck out as “frivolous” or “vexatious” are proceedings clearly destined to cause irrevocable damage to a defendant, such as where a defendant is asked to defend the same claim for a second time or where a plaintiff seeks to avail of the scarce resources of the courts to hear a claim which has no prospect of success.”*

**22.** *Riordan v. Ireland (No. 5)* [2001] 4 IR 463 (“*Riordan*”) and *Ewing v. Ireland* [2013] IESC 44 (“*Ewing*”) helpfully identify factors which might be indicators that a claim was vexatious. They include: (a) the bringing of further actions to determine an issue already

determined by another court; (b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person could reasonably expect to obtain relief; (c) where the action is brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights; (d) where issues tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings; € where the person instituting the proceedings has failed to pay the costs of unsuccessful proceedings; and (f) where the respondent persistently takes unsuccessful appeals from judicial decisions.

**23.** The Court of Appeal’s judgment in *Start Mortgages DAC v Kavanagh* [2023] IECA 251 is instructive. It upheld the striking out of proceedings seeking to set aside the outcome of earlier proceedings on the basis of scurrilous and groundless allegations, noting that a challenge to an earlier judgment could not be justified if the party could have, but failed, to raise the point at the relevant time. The plaintiff failed:

*“that part of the Greendale test which requires that the injustice complained of arises through no fault of the party bringing the challenge to the earlier judgment”.*

**24.** Noonan J. added at para. 22 that:

*“This appeal and indeed this entire application ... is a manifest abuse of process. It is impossible to avoid the conclusion that this is no more than a further attempt ... to postpone the inevitable, triggered by Start’s application to the Central Office to renew the possession order. The application ... amounts to little more than a cynical attempt to reagitate all the issues that were comprehensively decided against Mr. Kavanagh now over seven years ago.”*

Noonan J. relied (as had the trial judge) on the concise summary by Clarke J. (although the citation should refer to the Supreme Court judgment in *Student Transport Scheme Ltd v Minister for Education* [2021] IESC 35, rather than to *Re Greendale Developments Ltd* [2000] 2 IR 514). In any event, Clarke J stated (at para. 2.13) that:

*“There is, therefore, a clear and consistent line of authority on this topic. A high weight has to be attached to the principle of finality. The reason behind this is clear. Where proceedings have reached an end, the parties are entitled to expect that they will not have to continue to litigate the issues which have been finally determined. However, there may be exceptional circumstances where a failure to reopen may itself amount to a clear and significant breach of the fundamental constitutional rights of a party, going to the very root of fair and constitutional administration of justice, such that the decision sought to be reopened can properly be considered to be a nullity and not merely arguably in error. Where such a situation arises through no fault of the party concerned, it follows that the limited jurisdiction to reopen the case can be exercised.”*

25. Noonan J. noted that the principal argument advanced to set aside the judgment was precisely the argument made in the earlier proceedings in 2016. If Mr. Kavanagh had wished to challenge the High Court’s conclusions, he should have appealed.

***Res judicata, Henderson v Henderson, collateral attacks & abuse of process***

26. Several interrelated doctrines concern the circumstances in which the pursuit of a particular claim will be deemed impermissible and an abuse of process. There is a well-established jurisdiction to strike out claims which seek to relitigate issues already decided by courts of competent jurisdiction. See, for example, *Reichel v Magrath* (1889) 14 App. Cas. 665. In *Donohoe v Browne* [1986] IR 90, at p. 99, Gannon J. noted it was “*a matter of justice*” to prevent “*the apparent disclaimer of a binding court order by the party bound by it*”. Likewise, McKechnie J. observed in *First Active Plc v Cunningham* [2018] 2 IR 300, at p. 332, that proceedings should not:

*“be used as a backdoor by which the appellant can mount an appeal against the earlier decision, when said appeal has already been dismissed by the court”.*

27. Likewise, in *Vico Limited v Bank of Ireland* [2015] IEHC 525, at para. 23, McGovern J. noted that:

*“The right of access to the courts carries with it the responsibility to accept the decisions of the courts and not to use the court process to launch a collateral attack on or undermine earlier decisions of the courts on similar issues between the same parties or parties with a privity of interest.”*

**28.** As Costello J. observed in *Morrissey v Irish Bank Resolution Corporation* [2015] IEHC 200, at para. 5 (a decision endorsed by the Court of Appeal ([2017] IECA 162):

*“the courts have always been prepared to balance the rights of parties to have their cases heard and determined by the courts with the rights of the opposing parties to fair procedures in the conduct of litigation and, where necessary, to strike out proceedings if they amount to an abuse of process.”*

**29.** A party may also be precluded from litigating an issue which – even if it was not actually litigated or decided in earlier proceedings – could and should have been brought forward in the earlier proceedings. This principle, the rule in *Henderson v Henderson* (1843) 3 Hare 100 (“*Henderson v Henderson*”), has been repeatedly endorsed by the Irish Courts. See for example, *Fuller v Minister for Agriculture, Food and Forestry* [2013] IESC 52, *per* Clarke J. (at para. 5.1):

*“the Court has a discretion to prevent a defendant from raising an issue which could and should have been advanced in previous connected proceedings.”*

## **V. Findings**

### ***Allegation of fundamental fraud or mistake in the underlying proceedings***

**30.** The Defendant has exhibited duly certified judgment mortgage affidavits in these proceedings. I can see no issue as to the authenticity or content of those exhibits. Unless the Plaintiff is contending that the exhibits to the affidavit grounding this application were forgeries - and there appears no plausible basis to ventilate such a claim - then there is no basis for the contention of fraud or for the contention of a breach of the LRR. There is no evidence before the Court which suggests that the documents exhibited were fraudulently procured, that they

were forgeries or that there was any wrongful act (whether by the Defendant or her representatives or by the court officers who certified the applications or by the Property Registration Authority which registered the judgment mortgages).

**31.** The heart of the Plaintiff's attack on the three judgment mortgages is her (correct) observation that copies of the judgment mortgage affidavits exhibited in the Well-Charging Proceedings against her did not reflect the completed certification. The suggestion that successive decisions and orders of the High Court and Court of Appeal are liable to be set aside because they were procured by mistake or fraud hinges on this issue with the exhibits.

**32.** At the outset, I should note that it is impossible to fathom a plausible motivation for such a "fraud". The evidence confirms that, in 2017, the Defendant and her lawyers appreciated the need to obtain court certification to register the judgment mortgages. They were entitled to obtain certification. There was no obstacle to their doing so. Their entitlement to all four costs orders had been conclusively determined in the Defendant's favour by that stage. They readily secured such certification on 7 June 2017 in respect of the District Court order. It is unlikely that they would have taken the mandatory step for the District Court order but omitted it for the three (higher value) High Court orders two months later. The only possible reason for not doing so would be an inadvertent omission, which seems unlikely as the judgment mortgage affidavits were dealt with around the same time. It seems even more unlikely that the judgment mortgages would be accepted in the absence of any such contemporaneous certification.

**33.** Admittedly, when applications were made to register further judgment mortgages in 2019, the Defendant initially overlooked the certification requirement. However, the immediate rejection (and resubmission) of those applications shows what would have been likely to have happened in 2017 without such certification. It shows that the applications would not have been accepted and that any issue would have been swiftly rectified.

**34.** The issue is put beyond doubt by the contemporaneous, certified, judgment mortgage affidavits exhibited by the Defendant (as Exhibit “WD10”) which demonstrate that the judgment certification was, in fact, obtained on 25 July 2017. Accordingly, the Plaintiff’s attempt to impugn the three judgment mortgages (and all subsequent proceedings) on that ground is misconceived. Exhibit “WD10” shows that the judgment mortgages were duly certified at the appropriate time, and undermines the Plaintiff’s primary complaint (even if that issue had not already been determined in the earlier proceedings). Also, by letter dated 9 August 2017, the Property Registration Authority rejected the Plaintiff’s original application to cancel the judgment mortgages, confirming that:

*“While the contents of your Affidavit are noted, I wish to advise that the judgment mortgage was registered correctly on the above folio in accordance with the documentation lodged with the Authority and in accordance with the Rules for Registration.*

*The application for registration of the judgment mortgage was certified by the officer of the Court.”*

I am satisfied that the proper certification was obtained prior to registration of the judgment mortgages. All four judgment mortgages were properly registered.

**35.** The Plaintiff has not shown any basis on which she could meet the exacting standard identified by Fennelly J. in *Kenny*. She has not identified a stateable basis on which to assert:

*“deliberate and purposeful dishonesty, knowing and intentional deceit of the court”.*

I have seen no new issue which could conceivably go to the root of the case or would have affected the ultimate outcome of the Well-Charging Proceedings, nothing that “*changes the whole aspect of the case*” or that could justify “*an allegation that the court was deliberately deceived into making the impugned decision*”.

***Res judicata and abuse of process***

**36.** In any event, I do not consider that it would be open to the Plaintiff to challenge the judgment mortgages at this remove, since her current case is premised on documentation exhibited by the Defendant in her August 2017 affidavit in the Well-Charging Proceedings. She placed great emphasis on the fact that three of the judgment mortgage affidavits exhibited at that time did not contain the completed certification, whereas the versions of the same documents exhibited in May 2023 to ground this application did bear the necessary certification. The exhibiting of an uncertified version of the judgment mortgage affidavits suggests that, as one might expect, the Defendant's solicitors had copies of the executed judgment mortgage affidavits on their files both with and without the certification. It would have been better if the certified versions had been exhibited in the Well-Charging Proceedings. However, the fact remains that the May 2023 exhibit shows that the 2017 judgment mortgages were certified prior to registration, undermining the core premise of these proceedings. It follows that the judgment mortgage affidavits complied with the LRR, and the judgment mortgages were valid. The exhibiting of uncertified versions of the affidavits does not alter the legal analysis since the affidavits were properly certified and the judgment mortgages properly registered and the fact of their registration was established to the Court's satisfaction. Allen J. was satisfied that the proofs required on the well-charging application had been met. I agree with his conclusion. The initial exhibiting of the uncertified version does not prove fraud or forgery. Nor does it provide a basis to impugn the orders in the Well-Charging Proceedings.

**37.** While I do not consider that there is any substance in the Plaintiff's objection to the registration of the judgment mortgages, I do not believe that her objection could justify these proceedings in any event. Any such point could and should have been made in the Well-Charging Proceedings. The Plaintiff could have raised the point at that time if she believed it had any merit. She cannot now rely on the fact that certified versions of the documents were

first exhibited in May 2023 because her complaint is directed at the uncertified documents exhibited six years earlier. It was always apparent from the affidavit served in support of the Well-Charging Proceedings in 2017 that the certification boxes were blank in the versions exhibited at that point. If she considered that the 2017 affidavit grounding the Well-Charging Proceedings was defective for that reason, she could have made that point in the Well-Charging Proceedings (and, if necessary, it could have been immediately addressed by the provision of the certified documents). It is not open to the Plaintiff to take such a point years later, in the absence of significant new evidence which was not available to her at the time.

### ***Vexatiousness***

**38.** As well as being unstateable and bound to fail in the light of my previous conclusion, I am satisfied that the proceedings fall within the indicators of vexatiousness identified in *Riordan*, as applied in *Ewing*, on the following bases:

- a. As appears from the Appendix, the Plaintiff has brought multiple actions and applications in respect of an issue already conclusively determined against her by the High Court and Court of Appeal which have dismissed her proceedings as “collateral attacks” on the judgment mortgages and on the earlier costs orders. These proceedings are yet another collateral attack.
- b. For the reasons outlined above, it is obvious that the action cannot succeed, and its continuation would lead to no possible good. I do not believe that any reasonable person could reasonably expect relief in the circumstances.
- c. I consider that the action appears to have been brought to obstruct or delay the enforcement of the costs orders and the order for possession, and to harass and intimidate the Defendant, rather than for the resolution of genuine issues. If the latter



had been the motivation, then such points could, would and should have been raised in the Well-Charging Proceedings.

d. As has already been made clear in the related litigation, it is impermissible for the Plaintiff to relitigate issues which were determined in earlier proceedings (or which should have been). Accordingly, it is not possible for The Plaintiff to obtain the relief sought and this is an action brought for improper purposes.

e. Although I have primarily relied on the first three indicators identified in *Riordan* and *Ewing*, other indicators listed in those decisions also seem applicable in that: (i) the wider litigation has been marked by a pattern of issues being rolled forward into subsequent actions and repeated and supplemented, with actions brought against the lawyers who have acted against the litigant in earlier proceedings; (ii) the Plaintiff has failed to pay the costs of unsuccessful proceedings; and (iii) the Plaintiff has persistently taken unsuccessful appeals from judicial decisions.

f. These provisions also fall squarely within the definition of “frivolous” and “vexatious” outlined by Irvine J. in *Fox*, since the Plaintiff has repeatedly failed in the Court of Appeal on these issues, with the Supreme Court consistently refusing leave to appeal. I do not believe that the Plaintiff has raised any new issue of any substance which would not be precluded by the rule in *Henderson v Henderson*.

**39.** Accordingly, I am satisfied that all claims in these proceedings are precluded by the doctrine of *res judicata* (and/or the rule in *Henderson v Henderson*) and are frivolous, vexatious, bound to fail and an abuse of process for that reason, and because they constitute an impermissible collateral attack on previous judicial determinations. Clearly, if there were evidence to suggest falsification or forgery of documents the position would be different. However, there is no evidence before the Court, nor any matter properly raised in submissions to suggest any basis for such contention.

*Lis pendens*

**40.** The Plaintiff did not deny that she had lodged a *lis pendens*, avoiding adopting a position one way or the other on that issue. Her only real defence of the *lis pendens* was her submission that the Defendant's proofs were defective and that the Court cannot order a *lis pendens* to be vacated in the absence of evidence of registration. The Defendant had averred to the results of a High Court Search whereas the Plaintiff argued that the folio should have been exhibited. I am satisfied that the Defendant's grounding affidavit confirmed the existence of the *lis pendens*. If the Plaintiff disputed that contention she could and should have delivered a replying affidavit (in accordance with the Court's repeated directions). I am satisfied that a *lis pendens* has been lodged. It is difficult to avoid the conclusion that this was an attempt to undermine and attack the outcome of the Well-Charging Proceedings and a collateral attack on successive orders of the High Court and Court of Appeal. The Defendant is entitled to an order that it should be vacated under section 123(b)(ii) of the Land and Conveyancing Law Reform Act 2009, on the basis that this action is not being prosecuted *bona fide*.

*Other points raised by the Plaintiff*

**41.** Notwithstanding the exhortation of Collins J at para. 31 of his Court of Appeal judgment in related proceedings, referred to at para. 9 of the attached Appendix, the Plaintiff sought to raise various matters whether by way of submission or throw away comments which were not raised by the (limited) pleadings in these proceedings and for which there was no evidence. I do not propose to address most of these points because the Plaintiff had no basis to raise them, and many would be irrelevant to the current application in any event. However, for completeness, I will briefly note four examples of other points raised by the Plaintiff which I have considered but rejected:

a. The Plaintiff claimed to be still entitled to maintain a damages claim in the defamation proceedings against the Defendant and that the Defendant had admitted defaming her. She maintained she had been “*successful in terms of the consent orders*”, with the “*damages yet to be assessed*”. This novel contention appears inconsistent with the order of MacEochaidh J. on 14 February 2017, to which the Plaintiff consented. However, I need not determine that issue for the purposes of the current application.

b. The Plaintiff did not dispute the fact that she had consented to the 14 February 2017 order of MacEochaidh J. directing her to pay the Defendant the costs of the defamation proceedings. Nor did she dispute the two previous cost orders against her in those proceedings. Nor did she claim to have paid the amounts due. However, she denied any obligation to pay costs under the three High Court orders. She noted that, by agreement, a one-month stay was placed on the costs order. On 14 February 2017, during the one month stay, the Court’s order was perfected, striking out the action with no liberty to re-enter or to apply. She submitted that the legal effect of the stay was that the costs order did not exist at the time of the final order. Since the proceedings had been struck out by the time the stay expired, it was no longer possible for the stay to expire and for the costs order to come into existence. She submitted that the striking out meant that all issues in the defamation proceedings were resolved (although, as noted above, she believed that she maintained an ability to seek damages from the Defendant notwithstanding the striking out of the proceedings). She did not cite specific authorities for her metaphysical proposition but argued that proceedings can only be re-entered if liberty to re-enter is provided for in the final order. Accordingly, she argued, the stayed costs order never came into existence and, along with the orders of 27 February 2015 and 12 October 2015, it fell away when the defamation action was struck out. She maintained that it followed that the costs orders did not exist and could not be

registered as judgment mortgages. I consider that there is no substance to this “Schrödinger’s Cat” argument about the costs orders, but, in any event, it cannot now be raised since the validity of the costs orders was raised and resolved in the Well-Charging Proceedings. The Plaintiff argued in those proceedings that the 14 February 2017 order “cancelled” any liability under the three High Court cost orders, but that submission received short shrift (see, for example, the judgment of Costello J. ([2020] IECA 86, at para. 25), citing the High Court judgment of Allen J. (transcript of 27 March 2019, p. 38, lines 1-8)). The High Court and Court of Appeal determinations preclude the Plaintiff from raising that argument in these proceedings. It is devoid of merit, in any event.

c. The Plaintiff also submitted that, because there was an appeal pending in these proceedings (to the Court of Appeal in respect of the 16 June 2023 order of Stack J., ordering the Plaintiff to pay the Defendant’s costs on the unsuccessful injunction application), this Court cannot strike out these proceedings, as it could prevent her exercising her right to appeal the costs direction. She submitted that if the Court was minded to strike out the proceedings, that direction should be stayed pending the determination of the costs appeal. I doubt that the existence of an appeal on such a narrow point would preclude the Court’s striking out of proceedings determined to be frivolous, vexatious and an abuse of process, but I do not need to determine that issue since it appears that the appeal in respect of the costs order has now been determined (against the Plaintiff) in any event.

d. The Plaintiff also sought to question the Defendant’s entitlement to pursue the Well-Charging Proceedings on the basis that her solicitor’s practice had merged with another firm, which she regarded as a transfer of undertakings (and the Plaintiff appeared to be confusing EU law relating to employment rights in the context of a

transfer of undertakings, principles which have no bearing on the current litigation). This argument is misconceived but the issue has already been addressed by both the High Court and the Court of Appeal (and was also dismissed in the Supreme Court's determination that leave to appeal should be refused (at para. 18)). See, for example, para. 35 of the Court of Appeal judgment of Costello J.. The point is undeserving of further consideration.

### *Correspondence between the parties*

**42.** The Defendant complained that over the years the Plaintiff had sent numerous emails containing outrageous allegations against the Defendant and her solicitor. Samples were exhibited. The tone and content of many of these communications was extraordinary and included claims, demands and allegations far removed from the reality of the situation. I have seen no justification for the bizarre content of some of the Plaintiff's emails (such as demanding payments of the order of €5 million on foot of the defamation claim (which the Plaintiff later agreed should be struck out)) or for the Plaintiff's criticisms of the Defendant and her lawyers (who have not, in fact, committed, much less admitted to, perjury, as the Plaintiff has suggested).

**43.** Normally, "open" *inter partes* correspondence in litigation is dealt with by solicitors rather than by counsel, and I expect that the Law Society of Ireland and the Legal Services Regulatory Authority would be critical of any solicitor who sent such intemperate communications to a party against whom they were litigating (or to their lawyers). However, the Plaintiff was representing herself, rather than acting as an independent legal professional. Accordingly, although the correspondence does her no credit, I have treated the communications as if they issued from a lay litigant and I have disregarded them. I trust that the tone and content of future correspondence will be measured and professional.

## **VI. Conclusion**

**44.** There is no basis to doubt the sincerity of the Plaintiff's convictions in respect of the matters in issue in the various proceedings, but she has had ample opportunity to make her case in that regard and she has been unsuccessful. The validity of the judgment mortgages has been confirmed by the High Court judgments and Court of Appeal judgments of, *inter alia*, Allen, Reynolds, Costello, and Collins JJ.. Since the Supreme Court has refused leave to appeal those decisions, the issues which the Plaintiff seeks to ventilate have been conclusively determined. The emergence of significant new evidence (which was not previously available to the Plaintiff) would be required to reopen those issues. No such development has occurred.

**45.** Allen J. concluded that:

*“... the plaintiff in these proceedings has made out her case, that she recovered the order for costs... and that those costs were measured in the case of the District Court at €4,700 and taxed in the case of the High Court costs at €58,888.69 in accordance with the Conveyancing and Law of Property Act, those costs orders were registered as judgment mortgages on the defendant's interest in the folio and it is not contested that the plaintiff has paid nothing on foot of those orders for costs or judgment mortgages.”*

**46.** I agree with that conclusion. There is no basis to reopen the proceedings. Accordingly, and particularly in the light of the findings, judgments and rulings briefly summarised and cited in the Appendix hereto, I am satisfied that I should dismiss and strike out the claim against the Defendant pursuant to Order 19, rule 28 of the Rules of the Superior Courts, on the grounds that it is frivolous and/or vexatious and/or that the pleadings disclose no reasonable cause of action. I would also consider it an appropriate case in which to exercise my inherent jurisdiction, in any event.

**47.** I am also satisfied that, on the basis of my conclusion in respect of the first relief sought, that the second relief (vacation of the *lis pendens*) would follow, pursuant to s. 123 of the Land and Conveyancing Law Reform Act 2009. The Plaintiff sought a stay if I was minded

to make such orders. However, in the circumstances of the litigation, including the events and findings outlined in the attached Appendix and in the light of the reasons for my decision, such a stay is not warranted.

**48.** I will make an order in the terms of paras. a), b) and c) of the Notice of Motion. It seems to me that a number of issues will need to be considered with respect to costs, including whether any costs order should be on a “*party and party*” or “*legal practitioner and client*” basis, and whether the quantum of any costs should be left for adjudication (in default of agreement) or whether the Court should itself determine an appropriate figure either on an “on account” basis or in lieu of taxation. Clearly, if the latter course were to be urged on the Court, then at least a high-level estimate of the likely costs, verified on affidavit, would be of assistance, and it would be helpful if any such estimate could also list the various hearings that have taken place in the course of these proceedings. I accordingly give the parties 14 days to file any such short affidavit and submissions (the submissions to be less than 2000 words) and 7 days to respond to any such filings by the other party, and I will direct that the proceedings are listed again at 10 a.m. on Friday 12 April 2024 for the determination of the costs issues.

## **Appendix**

### **The Related Litigation and Enforcement Steps between the Parties**

Because the roles of plaintiff and defendant were reversed in some of the litigation, this appendix will refer to the parties by name, to avoid confusion. Many details of the earlier proceedings have limited relevance to this application and need not be canvassed in this judgment. Furthermore, the broader litigation has resulted in a series of lengthy High Court and Court of Appeal judgments in addition to the Supreme Court determinations refusing leave to appeal. Many of these judgments overlap and I have accordingly sought to confine my summary to the essential points and to minimise repetition. However, the following key points are clearly established in relation to the related litigation:

#### **1. Cost Awards Against Ms Houston**

- a. On 16 April 2014, Ms Houston issued High Court proceedings against Ms Doyle (record number 2014/3904P) claiming damages for defamation (“the Original Proceedings”).
- b. On 23 June 2015, Ms Houston issued separate District Court proceedings against Ms Doyle and another party. On 21 April 2017, the District Court dismissed Ms Houston’s claim, awarding scale costs of €4,700 to Ms Doyle. Ms Houston did not appeal the order.
- c. In the meantime, the Original Proceedings had been listed for hearing on 14 February 2017. MacEochaidh J. made an order on consent on that date. The order confirmed that the action had been called on for hearing and that, “*on hearing what was offered by [Ms Houston] in Person and Counsel for [Ms Doyle] And It Appearing that a settlement has been reached herein*”, the Court made declarations and struck out the



proceedings, directing Ms Houston to pay Ms Doyle the costs of the Original Proceedings, staying the costs order until 14 March 2017.

d. The costs payable on foot of the 14 February 2017 order, and under two earlier orders in the same proceedings, were taxed by the Taxing Master in an aggregate sum of €58,888.69. The other two orders were dated 27 February and 12 October 2015, respectively, and none of the three orders were appealed. Ms Houston did not lodge objections to the Taxing Master's determinations.

## **2. Registration of Judgment Mortgages**

a. Ms Doyle applied to the PRA to register judgment mortgages against a property owned by Ms Houston. Four judgment mortgages were registered against the relevant land folio between June and August 2017. Although other judgment mortgages were registered subsequently, these proceedings are primarily directed at the registration of these four judgment mortgages (the "Original Judgment Mortgages").

b. Ms Houston unsuccessfully applied to the PRA on foot of an (unsworn) affidavit, seeking the cancellation of their registration. The PRA advised her by letter dated 9 August 2017 that:

*"the judgment mortgage was registered correctly on the above folio in accordance with the documentation lodged with the Authority and in accordance with the Rules for Registration.*

*The application for registration of the judgment mortgage was certified by the officer of the Court."*

c. The PRA noted that it could only cancel a judgment mortgage:

*"on receipt of a release by the judgment creditor or on foot of a direction by Court Order."*

d. Ms Houston issued proceedings against the PRA (record number 2021/3487P) on 27 April 2021, alleging that the judgment mortgage in respect of the District Court order was procured by fraud. However, no steps have apparently been taken to progress those proceedings. It is not clear whether those proceedings have been served.

**3. Well-Charging Proceedings (2017/377SP)**

a. Ms Doyle issued the Well-Charging Proceedings against Ms Houston, grounded upon the Original Judgment Mortgages. Ms Houston applied to strike out the Well-Charging Proceedings. On 19 February 2018, O'Regan J. dismissed the application to strike out the proceedings, awarding costs to Ms Doyle.

b. On 25 June 2018, the Court of Appeal declined to extend the time for Ms Houston to appeal the decision of O'Regan J., awarding costs to Ms Doyle.

**4. Judgment of Allen J. in the Well-Charging Proceedings**

a. At a hearing on 27 March 2019, Allen J. found that the proofs were in order and granted the reliefs sought by Ms Doyle. He rejected Ms Houston's submission that her separate proceedings (record number 2017/6661P) ousted the Court's jurisdiction, concluding that those proceedings were a:

*“collateral attack on orders for costs previously made by the High Court and the District Court which were not appealed and which are final and conclusive”.*

b. Allen J. concluded that Ms Doyle had made out her entitlement to recover the four sets of costs as measured or taxed and that:

*“in accordance with the Conveyancing and Law of Property Act, those costs orders were registered as judgment mortgages on [Ms Doyle's] interest in the folio and it is not contested that [Ms Houston] has paid nothing on foot of those orders for costs or judgment mortgages.”*

- c. The order of Allen J. recorded that:
- i. The special summons had come for hearing and Allen J. had reviewed (*inter alia*) a copy of the “*Judgment Mortgage Affidavit certified by the District Court Office Dublin Metropolitan District and registered in the Property Registration Authority on the 15<sup>th</sup> day of June 2017*” and three further “*Judgment Mortgage Affidavits certified by the High Court and each registered in the Property Registration Authority on the 9<sup>th</sup> day of August 2017*”, reflecting Ms Doyle’s interest in the Property, and the PRA certified copy of Folio KE25772F County Kildare, dated 29 March 2019.
  - ii. The principal moneys secured by the four Original Judgment Mortgages:  
  
*“entered at Entries 4, 5, 6 and 7 on part 3 of the Folio set out in the Second Schedule hereto created by the registration as aforesaid of a copy of each of four Judgment Mortgage Affidavits the interest thereon and the costs herein after awarded stand well charged on [Ms Houston’s] interest in the said lands and premises*  
  
*And It Appearing that there is due to [Ms Doyle] on foot of the said Judgment Mortgages:*  
  
*(i) The sum of €58,888.89 [sic] for principal and interest from 14<sup>th</sup> day of July 2017 in respect of the said judgment mortgages registered at Entries 5, 6 and 7 on part 3 of the said Folio*  
  
*(ii) The sum of €4,700.00 for principal and interest from 21<sup>st</sup> day of April 2017 in respect of the said judgment mortgage registered at Entry 4 on part 3 of the said Folio”*
- d. The order also directed that the said land and premises be sold unless the debts, principal and ongoing interest, were paid within three months.
- e. Allen J. awarded the costs of the proceedings to Ms Doyle.

5. **Appeal to the Court of Appeal from the decision of Allen J.**

a. On 7 April 2020, the Court of Appeal dismissed the appeal from the decision of Allen J.. It awarded the costs of the appeal to Ms Doyle.

b. The Court of Appeal summary of the background observed (at para. 5) that:

*“Ms. Doyle swore judgment mortgage affidavits to register the costs orders in her favour as judgment mortgages against the interest of Ms. Houston in the premises. They were each in the form prescribed by Form 112 of the Property Registration Authority Rules”.*

c. The judgment continued:

*“6. Each of the affidavits were accepted by the Property Registration Authority (“the PRA”) and four judgments mortgages in favour of Ms. Doyle have been registered on the folio at entries 4, 5, 6 and 7 of Part 3 of the folio. The judgment mortgage in respect of the order obtained in the District Court was registered on 15 June 2017, and the three judgment mortgages in respect of the High Court costs orders were registered on 9 August 2017.*

*7. Ms. Houston objected to the registration of the judgment mortgages and applied to the PRA to vacate them. The PRA declined to do so and indicated that this could only be effected on foot of a court order. No such order has been obtained by Ms. Houston to date”.*

d. The Court of Appeal judgment observed that:

*“55. The judgment mortgages, the subject of these proceedings, were registered by the PRA on the folio. Section 31 of the Registration of Title Act 1964 provides that: -*

*“31.(1) The register shall be conclusive evidence of the title of the owner to the land as appearing on the register and of any right, privilege, appurtenance or burden as appearing thereon; and such title shall not, in the absence of actual fraud, be in any way affected in consequence of such owner having notice of any deed, document, or matter relating to the land; but nothing in this Act shall interfere with the jurisdiction of any court of competent jurisdiction based on the ground of actual fraud or mistake, and*

*the court may upon such ground make an order directing the register to be rectified in such manner and on such terms as it thinks just...”*

*56. It follows that unless and until the entries of the judgment mortgages are cancelled this court cannot look behind the folio. Ms. Houston said that she applied to the PRA to vacate the entries but was informed that she must obtain an order of court. That was in 2017. To date, she has not obtained such an order. It follows that neither the High Court, nor this court could, or may, engage with her argument regarding the validity of the costs orders, or the validity of the judgment mortgages, and the appropriateness of the registration of same on the folio. To do so would be to seek to go behind the register, which is not possible in the circumstances of this case.*

*57. Ms. Houston’s case is, in truth, a collateral attack on the costs orders. But, she has raised no basis to question the validity of the costs orders. I reiterate that none of them have been appealed. They are therefore valid final orders binding on all courts. She has advanced no basis upon which it would be open to this court to set aside or vacate any of the costs orders...*

*67. Section 31 of the Registration of Title Act 1964 provides that the folio is conclusive as to title and the registrable interests in the land. The judgment mortgages, the subject of these proceedings, were duly registered on the folio. Ms Houston cannot go behind the folio by challenging either the judgment mortgages or the underlying orders of the High Court and the District Court.”*

## **6. Application to the Supreme Court for leave to appeal**

a. On 14 September 2021, the Supreme Court refused the application by Ms Houston in the Well-Charging Proceedings for leave to appeal.

## **7. 2017 Proceedings (2017/6661P)**

a. On 20 July 2017, Ms Houston issued proceedings bearing record number 2017/6661P against Ms Doyle (“the 2017 Proceedings”), apparently in response or parallel to the Well-Charging Proceedings. The Statement of Claim sought to set aside the various orders on the basis that the orders used by Ms Doyle to obtain the judgment

mortgages were void or voidable, that void orders do not exist as a matter of law and therefore cannot be appealed or judicially reviewed.

b. Ms Doyle applied to strike out the 2017 Proceedings as *res judicata* and a collateral attack on the judgment mortgages and the underlying cost orders and the orders in the Well-Charging and previous proceedings.

c. In response to Ms Doyle's motion, Ms Houston claimed to have "won" the defamation proceedings and that she should have been awarded her costs (submissions inconsistent with the terms of the 14 February 2017 order or the fact that that order was made on consent). She said that she had not appealed or sought to set aside the 14 February 2017 order because the Court of Appeal was "*closed*" to her. She also attacked the validity of the District Court costs order.

**8. Judgment of Reynolds J.**

a. On 3 December 2019, Reynolds J. dismissed Ms Houston's application, noting that the costs order in the defamation proceedings had been made two and a half years before and there had been no application to set it aside. Reynolds J. concluded that the position in respect of the District Court costs was similar - Ms Houston could have appealed the District Court order but she had failed to do so. Accordingly, Reynolds J. was satisfied that Ms Houston did not have a stateable case in the 2017 Proceedings. Reynolds J. concluded that: (a) the 2017 proceedings were a collateral attack on the various cost orders; (b) the matters alleged did not give rise to any new cause of action and sought to relitigate issues already dealt with by other courts; and (c) the 2017 Proceedings were an abuse of process, disclosed no reasonable cause of action, were bound to fail and ought to be dismissed. Reynolds J. awarded Ms Doyle the costs of the motion and of the action.

**9. Appeal from the decision of Reynolds J. striking out the 2017 Proceedings**

a. Ms Houston appealed the decision of Reynolds J. striking out the 2017 Proceedings. Collins J. observed, at para. 46 of the Court of Appeal judgment, that:

*“[a]s a matter of fundamental principle, Ms Houston cannot seek to relitigate matters which have been determined in the Well-charging proceedings”.*

b. Collins J. noted that the applicant had again sought to attack the same costs orders, for the purpose of attacking the same judgment mortgages as were in issue in the Well-Charging Proceedings, with the ultimate purpose of attacking orders made by the High Court, and affirmed by the Court of Appeal, in those proceedings. He pointed out that, in seeking to maintain those proceedings, in circumstances where the Well-Charging Proceedings had been finally determined, Ms Houston was seeking to negate the outcome of those proceedings and to undo the orders made in them.

c. Collins J. observed that Ms Houston’s unsuccessful defence of the Well-Charging Proceedings before Allen J. had been characterised by Costello J. (in the appeal in the Well-Charging Proceedings) as “*a collateral attack on the costs orders*”, where the applicant had not raised any basis to question the validity of those orders, which were valid, final, orders, binding on all courts.

d. Collins J. noted (at para. 47) that:

*“In these proceedings, Ms Houston seeks to attack the self-same costs orders, for the purpose of attacking the self-same judgment mortgages as were at issue in the Well-charging proceedings, with the ultimate purpose of attacking the orders which were made by the High Court, and affirmed by this Court on appeal, in those proceedings. In seeking to maintain these proceedings in circumstances where the Well-charging proceedings have been finally determined - subject only to the possibility of a further appeal to the Supreme Court - it is quite evident that Ms Houston is seeking to negate the outcome of those proceedings and to undo the orders made on them. As a matter of fundamental principle, that is impermissible.”*

e. Collins J. concluded (at para. 54) that:

*“The Judge concluded that these proceedings amounted to a collateral attack on the costs orders. That conclusion was inevitable, in my view. They are also a collateral attack on the judgment mortgages registered against Ms Houston’s property in Co. Kildare and on the orders made in the Well-charging proceedings. Insofar as the pleadings disclose any grounds for Ms Houston’s challenge to the orders and the judgment mortgages, those grounds appear to be the same as those on which she unsuccessfully defended the Well-charging proceedings against her. While “duress” does not appear to have been argued in the Well-charging proceedings, at least in explicit or identifiable terms, it does not at all follow that Ms Houston could properly rely on a duress claim in these proceedings, having regard to the principle in *Henderson v Henderson* (1843) 3 Har 100 [sic]. That principle would appear to apply with more than usual force in the circumstances here. In any event, no claim of duress is in fact made in these proceedings nor is there a scintilla of evidence to support any such claim before the Court.”*

f. Accordingly, on 22 October 2020, the Court of Appeal dismissed Ms Houston’s appeal from the decision of Reynolds J. on all but one issue. While the decision to strike out the proceedings was upheld, Ms Houston was successful in her challenge to the High Court’s decision to make an *Isaac Wunder* order. The Court of Appeal judgment observed (at para. 71) that:

*“...as she is a barrister, Ms Houston is or ought to be well aware that she is not entitled to relitigate the issues which have been determined in the Well-charging proceedings and which she has sought to agitate again in these proceedings. Any attempt to do so - whether by way of further proceedings against Ms Doyle - would be an abuse of process and would clearly expose Ms Houston to a serious risk of an Isaac Wunder order being made against her in future.”*

g. Ms Houston was ordered to pay 75% of the costs of the appeal.



**10. Application for leave to appeal to the Supreme Court**

The Supreme Court refused Ms Houston leave to appeal the Court of Appeal decision. The determination dated 25 May 2021 noted Ms Houston's claim that she had settled the original defamation case under duress but that no evidence of duress had been adduced or referred to. The determination noted that the Court of Appeal had held that the High Court judge had been correct to hold that the proceedings were an abuse of process, and that Ms Houston was seeking to engage in a collateral attack on the judgment in the Well-Charging Proceedings.

**11. Application for order for Vacant Possession**

a. Ms Doyle issued a motion returnable for 10 October 2022 seeking orders for vacant possession on foot of the well-charging order. Ms Houston's replying affidavit alleged that the well-charging order was void, because the judgment mortgages were registered by fraud or mistake. She also alleged that the District Court order was a forgery and that she would be applying for an injunction. However, no such application materialised at that time.

b. On 7 November 2022, Quinn J. made an order for vacant possession, subject to a 6-month stay (which has since expired). He awarded costs to Ms Doyle.

c. Ms Houston appealed the order of Quinn J.. In the course of that appeal, she alleged fraud in respect of the Well-Charging Proceedings (apparently, once again, by reference to the judgment mortgages).

d. On 4 May 2023, the Court of Appeal dismissed Ms Houston's appeal against the decision of Quinn J., awarding costs to Ms Doyle.