

Unger and another (in substitution for Hasan) (Appellants) v Ul-Hasan (deceased) and another (Respondents)

Case ID: 2021/0159

Case summary

Issue

Whether an unadjudicated claim for financial provision under the Matrimonial and Family Proceedings Act 1984 (the “1984 Act”) survives the death of the respondent and can be continued against their estate.

Facts

Ms Hasan and Mr Ul-Hasan married in Pakistan in 1981. They separated in 2006. Mr Ul-Hasan obtained a divorce in Pakistan in 2012. Ms Hasan’s case is that, during the parties’ marriage, they accumulated significant wealth. In August 2017, Ms Hasan obtained leave to bring proceedings for financial provision under the 1984 Act. In January 2021, before Ms Hasan’s claim could be adjudicated, Mr Ul-Hasan died. Ms Hasan sought permission to pursue her claim for financial provision against Mr Ul-Hasan’s estate.

On 2 July 2021, Mostyn J refused Ms Hasan’s application for permission to pursue her claim. Section 1(1) of the Law Reform (Miscellaneous Provisions) Act 1934 (the “1934 Act”) provides, subject to certain exceptions, that all causes of action subsisting against a person shall survive their death and may be pursued against their estate. The judge considered that he was bound by Court of Appeal authority to the effect that a claim for financial provision under the 1984 Act was not a cause of action for the purposes of Section 1 of the 1934 Act. Accordingly, Ms Hasan could not pursue her claim against Mr Ul-Hasan’s estate. However, Mostyn J also thought that - although he was bound by it - the Court of Appeal authority was wrongly decided. He accordingly granted Ms Hasan a certificate pursuant to Section 12(1) of the Administration of Justice Act 1969 (the “1969 Act”) granting permission for Ms Hasan to make a ‘leapfrog’ appeal directly to the Supreme Court. Since permission to appeal was granted, Ms Hasan died and her appeal is continued by personal representatives of her estate.

Judgment appealed

[\[2021\] EWHC 1791](#)

Parties

Appellant(s)

Adeela Unger and Richard Sebastian Francis Unger (in substitution for Nafisa Hasan)

Respondent(s)

1) Mahmud Ul-Hasan (deceased), 2) Lamyia Al Shaibah

Appeal

Justices

Lord Hodge, Lord Hamblen, Lord Leggatt, Lord Burrows, Lord Stephens

Hearing start date

20 October 2022

Hearing finish date

20 October 2022

Watch hearing

20 Oct 2022 [Morning session](#) [Afternoon session](#)