



Neutral Citation Number: [2024] EWCA Civ 356

Case No: CA-2023-001116

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM
BUSINESS AND PROPERTY COURTS IN MANCHESTER
His Honour Judge Hodge KC (sitting as a Judge of the High Court)
[2023] EWHC 567 (Ch) and [2023] EWHC 1350 (Ch).

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: Thursday 11 April 2024

Before :

LORD JUSTICE PETER JACKSON
LORD JUSTICE GREEN
and
LORD JUSTICE SNOWDEN

Between :

MANOLETE PARTNERS PLC

Applicant/
Respondent

- and -

IAN RUSSELL WHITE

Respondent
/Appellant

The Appellant appeared in person
Joseph Curl KC and Jon Colclough (instructed by Addleshaw Goddard LLP) for the
Respondent

Hearing date: 11 April 2024

Approved Judgment

This judgment was handed down remotely at 3 p.m. on 11 April 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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LORD JUSTICE SNOWDEN (giving the judgment of the Court):

1. This appeal raises an important point of statutory interpretation as to the meaning and effect of section 91(2) of the Pensions Act 1993. The issue is whether section 91(2) prohibits the court from making an order, pursuant to section 37(1) of the Senior Courts Act 1981, requiring a judgment debtor to exercise a right to draw down money from an occupational pension scheme so that those monies can be made available to pay the judgment debt against him.
2. The appeal is against a decision of HHJ Hodge KC who decided that section 91(2) did not prohibit such an order, and that it was just and convenient to make it on certain terms: see Re Lloyds British Testing Limited (in liquidation), Manolete Partners plc v White [2023] EWHC 567 (Ch) and [2023] EWHC 1350 (Ch).
3. Shortly before this appeal was due to be heard, the Appellant, who had previously been represented by solicitors and counsel, notified the solicitors for the Respondent (Addleshaw Goddard) that he would be acting in person. The Appellant told us at the hearing that this was because he had run out of money to fund representation at the hearing. Entirely properly, Addleshaw Goddard directed the Appellant to Advocate, the *pro bono* charity of the Bar, but unfortunately, due to the shortness of time, it was not possible for the Appellant to obtain *pro bono* assistance for the appeal.
4. As Lord Justice Peter Jackson explained at the hearing, we had been much assisted in our pre-reading by the written submissions from counsel previously instructed on behalf of the Appellant (Tom Asquith), which had led to the grant of permission to appeal, and from counsel for the Respondent (Joseph Curl KC and Jon Colclough). On the basis of that pre-reading, our view was that this appeal raised points which were seriously arguable and of wider potential importance to occupational pensions generally.
5. In these circumstances, we indicated that we considered that it would be appropriate for the appeal to be adjourned to give the Appellant the opportunity to attempt to obtain representation (ideally from specialist counsel) on a *pro bono* basis to enable the issues to be properly ventilated in oral argument. We also took the view that this was a case which should be listed for a full day hearing rather than the half day which had been allocated to it.
6. The Appellant embraced our suggestions and, having taken instructions, Mr. Curl did not oppose an adjournment. Mr. Curl did, however, request that such efforts should be made by the Appellant to obtain representation, and that the appeal should be relisted for hearing, without undue delay. To that end, Mr. Curl was content for the court to bring this matter directly to the attention of Advocate with a view to expediting matters. He also sought a direction that if a new skeleton argument was to be filed on behalf of the Appellant for the appeal, that should be provided to the Respondent no less than 14 days before the date fixed for the adjourned hearing. We are content to give such directions.