



No. PT-2019-000503

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES (ChD)**

Neutral Citation Number: [2019] EWHC 2616 (Ch)

Rolls Building
Fetter Lane
London, EC4A 1NL

Friday, 12 July 2019

Before:

MR JUSTICE MARCUS SMITH

B E T W E E N :

HENRY LONGE Claimant

- and -

BANK OF SCOTLAND PLC Defendant

THE CLAIMANT appeared in Person.

MR M. CARDEW appeared for the Defendant.

J U D G E M E N T

MR JUSTICE MARCUS SMITH:

- 1 I have before me an application by Mr Henry Longe for an interim injunction in support of proceedings that he has commenced against the Bank of Scotland plc (the “Bank”).
- 2 Although the application is framed in rather longer terms, which I shall not repeat, in essence what Mr Longe seeks is an interim injunction restraining the Bank from taking any steps to enforce an order that was made on 6 June 2019 by District Judge Wright. That order essentially determined various issues on the pleadings, which cleared a way for the Bank to seek possession of certain property that Mr Longe owns.
- 3 The Particulars of Claim pleaded by Mr Longe are verified by a statement of truth and what they allege is that the order of the District Judge was procured by fraud. The Bank, for its part, contends that there is in no way a serious question to be tried arising out of these Particulars of Claim, because those matters were actually determined by the District Judge at a hearing on 6 June 2019.
- 4 The problem that I have is that whether there is a duplication between the matters pleaded by Mr Longe and the matters determined by the District Judge is, itself, quite a difficult question of fact. I am not at all satisfied that I can say that there is not a serious question to be tried on that point. Furthermore, there is a difficult question as to whether an issue estoppel arises in a case where there has been a summary determination of a claim rather than a trial on the merits. That is a point which seems to me to be important to be addressed: and it has not been before me today.
- 5 It seems to me that the substantial objections that the Bank articulated to Mr Longe’s claim for interim relief are rather difficult to determine, and I make clear that I do not determine them today. It seems to me that I can deal with the application of Mr Longe in an altogether shorter way. The fact is that Mr Longe has not been able to point to any threat to his property by the Bank and that there is actually nothing in the conduct of the Bank for this court, at this point in time, to enjoin. It seems to me that, therefore, the issues that underline the grant of interim injunctions simply do not arise in this case. It seems to me entirely wrong for the court to make an injunction in circumstances where the applicant seeking that injunction can point to nothing that needs to be stopped or enjoined. The point about injunctions is that they need to be tightly focused on what the target of the injunction can and cannot do; and that is something which, in this case, I am afraid, I find impossible to articulate.
- 6 Mr Longe suggested that he would benefit from a general injunction against all the world, preventing parties interfering with his business. That, I am afraid, is a stretch too far. If I am not prepared to grant an injunction against the Bank of Scotland because it is impossible to articulate what is to be enjoined, I am still less going to grant an injunction against all the world, preventing them from interfering in an altogether unspecific way in Mr Longe’s affairs.
- 7 So, for that reason, I dismiss the application for interim relief: but I make clear that I have simply done so on the basis that there is, as matters stand at the moment, nothing which this court can injunct. It may well be that matters change in the future, in which case everything that I have said in this ruling is without prejudice to a renewed application by Mr Longe for injunctive relief.

There then followed submissions on costs. After hearing the parties:

- 8 Since this is a case where the bank has an ability to add the costs of today to the sum it can recover pursuant to a security, the usual order that banks seek in this sort of case is no order as to costs, because they find that a costs order positively interferes with the ability to add such costs to the charge.
- 9 Although Mr Cardew, who appeared for the Bank, is right to say that Mr Longe has substantially not got what he sought, he has not got what he sought for reasons that were articulated by me during the course of the hearing, and I am bound to say that Mr Longe made a very respectable effort at persuading me that an injunction might be appropriate in this case. In those circumstances, contrary to what I would normally do, I will put a spanner in the works of the Bank's ability to recover these costs, and make an order that there be no order as to costs in this matter.